

Introduced October 7, 2019
Public Hearing October 21, 2019
Council Action November 4, 2019
Executive Action November 6, 2019
Effective Date January 6, 2020

County Council of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 12

Bill No. 50-2019

Introduced by: The Chairperson at the request of the County Executive

AN ACT defining certain terms such as disability income, disability income housing unit, low income and low income housing unit; providing for Disability Income Housing Units as an optional method of providing moderate income housing units in certain instances; providing for certain numbers of units when Disability Income Housing Units are used; adding a unit type and size for studio units that are used as a Moderate Income Housing Unit offered for sale or rent; amending certain prohibited transfers to allow that certain types of entities that are formed to receive low income housing tax credits may use optional or alternative methods; amending the fee in lieu to clarify the basis for the computation of square footage used to determine the rate; clarifying when the fee in lieu will be paid; providing that the fee in lieu can be used for grants to the Housing Commission or local nonprofits; amending how many days the Department shall use when calculating the prevailing interest rate; providing that the Department shall establish rental rates for Disability Incoming Housing Units that shall be based on monthly income; clarifying that sales prices shall be based on certain square footage; establishing the pricing for the subsequent sale of previously occupied Moderate Income Housing Units, under certain conditions; providing for certain fines and penalties; adding certain qualifications to be eligible to purchase or rent; including employees of the Housing Commission as those who will receive certain priority; providing that purchasers who do not reside in their unit shall be subject to certain penalties; requiring that Regulations contain certain criteria; making certain technical corrections; and generally related to moderate income housing in Howard County.

Introduced and read first time October 7, 2019. Ordered posted and hearing scheduled.

By order Diane A. Jones
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to the Charter, the Bill was read for a second time at a public hearing on October 21, 2019.

By order Diane A. Jones
Diane Schwartz Jones, Administrator

This Bill was read the third time on November 4 2019 and Passed , Passed with amendments , Failed .

By order Diane A. Jones
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 5th day of November 2019 at 2 a.m./p.m.

By order Diane A. Jones
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive November 6, 2019

Calvin Ball
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland that the Howard
2 County Code is amended as follows:

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*By amending Title 13 "Housing and Community Development"
Section 13.401 "Definitions."*

*By amending Title 13 "Housing and Community Development"
Section 13.402 "Development procedures; moderate income housing unit agreement;
alternative."
Subsections (b), (e) and (l)*

*By amending Title 13 "Housing and Community Development"
Section 13.402C "Alternatives to moderate income housing unit obligation in certain
zones."
Subsection (e)*

*By amending Title 13 "Housing and Community Development"
Section 13.403 "Prices for moderate income housing units offered for sale; rates for
rental units."*

*By amending Title 13 "Housing and Community Development"
13.404 "Sale of moderate income housing unit."
Subsections (a) and (d)*

*By adding subsection (e) to Title 13 "Housing and Community Development"
13.404 "Sale of moderate income housing unit."*

*By amending Title 13 "Housing and Community Development"
13.405 "Rental of moderate income housing units."
Subsection (b)*

1 *By amending Title 13 "Housing and Community Development"*

2 *13.406 "Eligibility to purchase or rent."*

3 *Subsections (b), (c) and (e)*

4
5 *By adding subsection (g) to Title 13 "Housing and Community Development"*

6 *13.406 "Eligibility to purchase or rent."*

7
8 *By amending Title 13 "Housing and Community Development"*

9 *13.408 "Foreclosures; waiver"*

10 *Subsection (a) and (b)*

11
12 *By amending Title 13 "Housing and Community Development"*

13 *13.409 "Regulations."*

14
15 **Title 13. Housing and community development.**

16 **Subtitle 4. Moderate Income Housing Units**

17
18 **Section 13.401. Definitions.**

19 (a) *In General.* In this subtitle, the following words have the meanings indicated:

20 (b) *Commission* means the Howard County Housing Commission.

21 (c) *Department* means the Howard County Department of Housing and Community Development.

22 (d) *Designee* means the Howard County Housing Commission, a nonprofit corporation, or a quasi-
23 public housing development organization designated by the Department as eligible to operate and
24 maintain moderate income housing units on a long-term basis.

25 (e) *Director* means the Director of the Department of Housing and Community Development.

26 ~~(f) *DISABILITY INCOME* MEANS AN ANNUAL HOUSEHOLD INCOME OF UP TO 20 PERCENT OF THE
27 MEDIAN INCOME IN HOWARD COUNTY.~~

28 ~~(g) *DISABILITY INCOME HOUSING UNIT (DIHU)* MEANS A DWELLING UNIT OFFERED FOR RENT TO AN
29 ADULT PERSON WITH A DISABILITY RECEIVING A CASH PAYMENT OF SUPPLEMENTAL SECURITY
30 INCOME (SSI) OR SOCIAL SECURITY DISABILITY INCOME (SSDI).~~

1 (F) DISABILITY INCOME MEANS AN ANNUAL HOUSEHOLD INCOME OF UP TO 20 PERCENT OF THE
2 MEDIAN INCOME IN HOWARD COUNTY COMPRISED, IN PART, FROM A CASH PAYMENT OF
3 SUPPLEMENTAL SECURITY INCOME (SSI) OR SOCIAL SECURITY DISABILITY INCOME (SSDI).

4 (G) DISABILITY INCOME HOUSING UNIT (DIHU) MEANS A DWELLING UNIT OFFERED FOR RENT TO A
5 HOUSEHOLD WITH AN ADULT PERSON RECEIVING DISABILITY INCOME.

6
7 ([[f]]H) *Dwelling unit* has the meaning stated in the Howard County Zoning Regulations.

8 ([[g]]I) *Eligible purchaser* means a holder of a certificate of eligibility under section 13.406 of
9 this subtitle who has been prequalified by the Department to obtain a mortgage in an amount
10 sufficient to enable the individual to purchase a moderate income housing unit. ELIGIBLE
11 PURCHASERS CANNOT OWN ANY OTHER REAL PROPERTY AT THE TIME THEY ARE AWARDED A
12 MODERATE-INCOME HOUSING UNIT.

13 ([[h]]J) *First-time home buyer* means an individual who, during the three years before receiving a
14 certificate of eligibility:

15 (1) Has not owned any property used or usable as a residence; or

16 (2) Has owned a personal residence but, because of the separation or divorce of the joint
17 tenants or the death of one of the joint tenants, needs to purchase a personal residence
18 without the former joint tenant.

19 ([[i]]K) *Initial sale price* means the price set by the Housing and Community Development Board
20 under section 13.403 of this subtitle for the first sale of a type of moderate income housing unit.

21 (L) *LOW INCOME* MEANS AN ANNUAL HOUSEHOLD INCOME OF UP TO 60 PERCENT OF THE MEDIAN
22 INCOME IN HOWARD COUNTY.

23 (M) *LOW INCOME HOUSING UNIT* MEANS A DWELLING UNIT OFFERED FOR SALE OR RENT TO
24 HOUSEHOLDS WITH LOW INCOMES.

25 ([[j]]N) *Median income* means the median annual income of Howard County as determined by the
26 U.S. Census Bureau.

27 ([[k]]O) *Moderate income* means an annual household income of up to 80 percent of the median
28 income in Howard County.

29 ([[l]]P) *Moderate income housing unit (MIHU)* means a dwelling unit offered for sale or rent to
30 households with moderate incomes.

1 ([[m]]Q) *Moderate income housing unit offered for sale* means a unit that is built on a subdivided
2 lot or subject to a condominium regime, as provided in a moderate income housing unit agreement
3 under subsection 13.402(b) of this subtitle.

4 ([[n]]R) *Proffered unit* means a moderate income housing unit in a development for which the
5 provision of moderate income housing is proffered by the petitioner and made a condition of
6 approval in a preliminary development plan approved by the Zoning Board.

7 ([[o]]S) *Rehabilitated existing moderate income housing unit* means an existing residential housing
8 unit that has been determined by the Department of Housing and Community Development to have
9 met the specified eligibility criteria and rehabilitation requirements for such units as provided in
10 this subtitle and that is subject to and bound to comply with all of the requirements in this subtitle
11 applicable to newly built moderate income housing units.

12 ([[p]]T) *Rental unit* means a moderate income housing unit that is not a moderate income housing
13 unit offered for sale.

14
15 **Section 13.402. Development procedures; moderate income housing unit agreement;**
16 **alternative.**

17 (b) *Moderate Income Housing Unit Agreement.* The moderate income housing unit agreement
18 under this section shall be in a form prescribed by the Department and shall include:

19 (1) A statement of the number of moderate income housing units required under the zoning
20 regulations;

21 (2) A requirement that the developer comply with the minimum specifications for moderate
22 income housing units established by the Department;

23 (3) A plan for construction of moderate income housing units offered for sale and rental units,
24 which shall, to the extent practicable, [[taking into account]] CONSIDER current market
25 conditions, the needs of eligible purchasers, and planning considerations, require that
26 each phase of the development contain its proportionate share of the total number of
27 moderate income housing units required under the approved final plan or site
28 development plan; and

29 (4) A statement of how moderate income housing units will be provided that shall include
30 the number of units, types of units, and location of units.

31 (e) *Optional Methods:*

1 (1) A developer required to provide moderate income housing units under the zoning
2 regulations may request permission to provide the required units:

- 3 (i) At a different location; [[or]]
- 4 (ii) As a different ratio of unit types[.];OR
- 5 (iii) AS DISABILITY INCOME HOUSING UNITS.

6 (2) A developer may use an optional method under this subsection if the Director, upon
7 recommendation from the Housing and Community Development Board and in
8 consultation with the Director of Planning and Zoning and the Director of Community
9 Resources and Services, determines that:

- 10 (i) a. The number of moderate income housing units to be constructed in the
11 development will render the development economically unfeasible; or
- 12 b. The development proposes an indivisible package of services and facilities to all
13 residents that would cost the moderate income housing unit owners so much that
14 the units would be rendered unaffordable to eligible purchasers; and
- 15 (ii) The optional method results in geographic distribution of moderate income housing
16 units throughout the County.

17 (3) A DEVELOPER MAY USE DISABILITY INCOME HOUSING UNITS AS AN OPTIONAL METHOD
18 UNDER THIS SUBSECTION IF THE DIRECTOR, IN CONSULTATION WITH THE ADMINISTRATOR
19 OF THE OFFICE OF TRANSPORTATION, THE DIRECTOR OF COMMUNITY RESOURCES AND
20 SERVICES AND THE DIRECTOR OF PLANNING AND ZONING, DETERMINES THAT THERE IS A
21 NEED FOR THE PROPOSED DISABILITY INCOME HOUSING UNITS.

22 ([[3]])4) A developer who uses an optional method of providing moderate income housing
23 units in accordance with paragraph (1) of this subsection shall calculate the number of
24 units to be provided as set forth below:

- 25
- 26 (i) For every one moderate income single-family detached housing unit required by the
27 zoning regulations, the requirement shall be increased by the multiplier in the
28 following chart:

Type of Unit	On-site	Off-site
Single Family Detached	Not Applicable	1.5 Moderate Income HOUSING Units

Single Family Attached	1.5 Moderate Income HOUSING Units	1.75 Moderate Income HOUSING Units
Apartment	1.75 Moderate Income HOUSING Units	2.0 Moderate Income HOUSING Units

1 (ii) For every one single-family attached moderate income housing unit required by
 2 the zoning regulations, the requirement shall be increased by the multiplier in the
 3 following chart:

Type of Unit	On-site	Off-site
Single Family Attached	[[Not Applicable]] 0.33 DISABILITY INCOME HOUSING UNITS	1.5 Moderate Income HOUSING Units
Apartment	1.5 Moderate Income HOUSING Units OR 0.4 DISABILITY INCOME HOUSING UNITS	1.75 Moderate Income HOUSING Units

4 (iii) For every one moderate income apartment required by the zoning regulations, the
 5 requirement shall be modified by the multiplier in the following chart:

Type of Unit	On-site	Off-site, Apartment Units
Apartment	[[Not Applicable]]0.4 DISABILITY INCOME HOUSING UNIT	1.5 Moderate Income HOUSING Units
[[Single Family Attached]]	[[Not Applicable]]	[[.67 Moderate income Units]]

6
 7 (i) *Prohibited Transfers.* A developer using an optional or alternative method of compliance may
 8 not provide the required moderate income housing units on property:

- 9 (1) Wholly owned by the Howard County Housing Commission;
- 10 (2) [[Owned by a limited partnership or limited liability company formed solely for the
 11 purpose of obtaining the benefit of low income housing tax credits under section 42 of
 12 the Internal Revenue Code and in which the Commission is the general partner or
 13 managing member;
- 14 (3)]]Owned by the County; or
- 15 ([[4]]3) In a census tract block group where the poverty level is ten percent or greater
 16 according to the most recent census.

1
2 **Section 13.402C. - Alternatives to moderate income housing unit obligation in certain**
3 **zones.**

4 (e) *Fee-In-Lieu.* The developer may pay a fee-in-lieu to the Department for each unit in the
5 development or portion of the development that is not providing MIHUs onsite:

- 6 (1) [[The fee-in-lieu for Fiscal Year 2014 shall be \$2.00 per square foot of residential space
7 for each unit in the development as calculated for the building excise tax, section 20,
8 subtitle 5 of the Howard County Code of Maryland]] THE FEE-IN-LIEU SHALL BE BASED
9 ON THE SQUARE FOOTAGE CALCULATED BY THE COUNTY FOR PURPOSES OF DETERMINING A
10 UNIT'S BUILDING EXCISE TAX WHEN APPLYING FOR A BUILDING PERMIT FOR THE
11 DEVELOPMENT;
- 12 (2) The fee-in-lieu shall be set yearly by Council resolution based upon the percentage of
13 increase in the ENR Construction Cost Index for the Baltimore Region as reported in
14 ENR, Engineering News Record;
- 15 (3) The fee-in-lieu shall be published on the County's website together with the base sales
16 prices and rents for moderate income housing units;
- 17 (4) If the developer chooses to provide a portion of the required MIHUs on site, the fee shall
18 be prorated accordingly.
- 19 (5) Except as provided in paragraph (a) of this section, a developer may not pay a fee in lieu
20 of a single-family attached or apartment moderate income housing unit except in an age-
21 restricted adult housing or planned senior community;
- 22 (6) A developer shall pay the fee-in-lieu [[before a use and occupancy permit may be issued
23 for any unit in the development]] FOR EACH UNIT WHEN A BUILDING PERMIT APPLICATION
24 IS SUBMITTED;
- 25 (7) The fee-in-lieu collected by the Department shall be used for the following:
- 26 (i) The Settlement Downpayment Loan Program;
- 27 (ii) The Rehabilitation Loan Program;
- 28 (iii) Grants to other County entities, THE HOWARD COUNTY HOUSING COMMISSION OR
29 LOCAL NON-PROFITS for rental housing subsidies, the purchase and rehabilitation of
30 existing properties for sale or rent to low or moderate income households, emergency

1 eviction support, or other housing opportunities for low and moderate income
2 households; and

3 (8) By February 1 of each year, the Department shall provide a detailed annual report to the
4 Council of each collection and expenditure of all fee-in-lieu funds for the prior calendar
5 year.

6 (9) In census tract block group where the poverty level is ten percent or greater according to
7 the most recent census, the fee-in-lieu collected by the Department shall be used only for
8 the Settlement Downpayment Loan Program and the Rehabilitation Loan Program.

9
10 **Section 13.403. - Prices for moderate income housing units offered for sale; rates for rental**
11 **units.**

12 (a) *Base Prices for Moderate Income Housing Units Offered for Sale.* The base sale price for a
13 moderate income housing unit shall be determined by the Housing and Community
14 Development Board in accordance with this subsection.

15 (1) Twice a year, the Board shall establish the base sale price for each type of moderate
16 income housing unit offered for sale.

17 (2) Before establishing the base sale price under this subsection, the Board shall provide
18 information concerning the real property tax, insurance, and interest rate factors it
19 proposes to use in establishing the base sale price on the County's website.

20 (3) Before establishing the base sale price for moderate income housing units located in
21 planned senior communities and age-restricted adult housing developments, the Board
22 shall consult with the Office on Aging and Independence.

23 (4) The Department shall provide to the Board information concerning current real property
24 tax and insurance rates.

25 (5) The base sale prices for moderate income housing units shall be based upon:

26 (i) A base size unit of the following types:

Type	Number of Bedrooms	Moderate Income Units—Base Size (sq. ft.)
Single-family detached	2	1,540
	3	1,680

	4	1,820
Semi-detached (duplex) and single-family attached (townhouse)	2	1,500
	3	1,640
	4	1,780
Back-to-back single-family attached (townhouse)	2	1,400
	3	1,540
Apartments	1	750
	2	950
	3	1,100
STUDIO	0	600

- 1 (ii) Factors established annually by the Board, for:
- 2 a. Real property taxes; and
- 3 b. Insurance rates;
- 4 (iii) Factors established twice a year by the Board for:
- 5 a. Interest rates on FHA 30-year mortgages; and
- 6 b. FHA mortgage insurance premiums, as determined by the United States
- 7 Department of Housing and Urban Development; and
- 8 (iv) An average of the homeowners' association fees or condo fees charged for similar
- 9 units in the market, based on an annual survey of fees.
- 10 (6) The Department shall provide to the Board the price at which an eligible purchaser with
- 11 a household income equal to the following percentages of median income, adjusted by
- 12 family size appropriate to the size and number of bedrooms in the dwelling unit, can
- 13 afford to purchase a dwelling unit:
- 14 (i) Seventy percent for proffered units and single-family homes;
- 15 (ii) Sixty-five percent for semi-detached (duplexes) and single-family attached
- 16 (townhomes); and
- 17 (iii) Fifty percent for apartments (condominiums).
- 18 (7) For the purposes of this subsection:
- 19 (i) A purchaser can afford to purchase a dwelling unit if the purchaser's monthly income
- 20 would qualify the purchaser to obtain a 30-year fixed rate mortgage at the prevailing

1 interest rate in an amount sufficient to pay 97 percent of the purchase price of the
2 unit;

3 (ii) A purchaser's monthly income qualifies for a mortgage if the monthly payment
4 required to pay (1) the monthly principal and interest of the mortgage loan, plus (2)
5 the monthly payment of taxes and insurance on the property, calculated in accordance
6 with the factors established by the Department under subsection (a) of this section,
7 plus (3) the monthly payment of homeowners or condominium association fees, plus
8 (4) the monthly payment of the FHA mortgage insurance premium, does not exceed
9 28 percent of the purchaser's monthly income; and

10 (iii) The prevailing interest rate is the prevailing mortgage interest rate for FHA-insured
11 30-year fixed-rate mortgages in the Baltimore Metropolitan Area with zero points.
12 The Department shall calculate the prevailing interest rate by surveying, twice a year,
13 at least three mortgage lenders and two banks for THE PREVIOUS BUSINESS DAY [[at
14 least three consecutive business days]].

15 (8) The Board shall determine the prevailing interest rate as of December 1 and June 1 of
16 each year.

17 (9) As determined by the regulations of the Department and subject to paragraph (11) of this
18 subsection, an increase in the base sales price of a moderate income housing unit may be
19 made for the following upgrades in size, design, or amenities provided that the Board
20 determines that they are necessary to ensure the compatibility of the moderate income
21 housing unit with the development's market rate units AND SIZE SHALL BE THE SQUARE
22 FOOTAGE CALCULATED BY THE COUNTY FOR PURPOSES OF DETERMINING A UNIT'S
23 BUILDING EXCISE TAX WHEN APPLYING FOR A BUILDING PERMIT:

24 (i) Single-family attached (townhouse OR CONDOMINIUM) units that are larger than the
25 base size established by this section;

26 (ii) Additional bathrooms or powder rooms; AND

27 [[(iii) Finished basements;

28 (iv) Garages in single-family attached (townhouse) units; and

29 (v)]] (iii) Other upgrades in design or amenities that are necessary to ensure architectural
30 compatibility with the development's market rate [[units]] UNITS.

1 (10) As determined by regulations of the Department and subject to paragraph (11) of this
2 subsection, an increase in the base sales price of a moderate income housing unit may be
3 made if the homeowners' association or condominium association fees applicable to the
4 unit are less than the average of the homeowners' association fees or condominium fees
5 charged for similar units in the market, as determined by the Department.

6 (11) Any increase in the base sales price of a moderate income housing unit may not exceed:

- 7 (i) Fifty percent of the base sales price for apartment (condominium) units;
- 8 (ii) Twenty percent of the base sales price for semi-detached (duplex) and single-family
9 attached (townhouse) units; and
- 10 (iii) Ten percent of the base sales price for single-family detached and proffered units.

11 (12) As determined by regulations of the Department, a reduction in the base sales price of a
12 moderate income housing unit shall be made:

- 13 (i) For units that are smaller than the base size established by this section; OR
- 14 (ii) [[For single-family detached units, semi-detached (duplex) units, and single-family
15 attached (townhouse) units without basements; or
- 16 (iii)]] If the homeowners' association or condominium association fees applicable to the
17 unit are more than the average of the homeowners' association fees or condominium
18 fees charged for similar units in the market, as determined by the Department.

19 (b) *Rates for Rental Units:*

20 (1) The Department shall establish maximum rates for rental units, by bedroom size, that are
21 equal to 30 percent of the monthly income of a household whose annual income does not
22 exceed 60 percent of the median income.

23 (2) THE DEPARTMENT SHALL ESTABLISH MAXIMUM RATES FOR DIHU RENTAL UNITS THAT ARE
24 EQUAL TO 30 PERCENT OF THE MONTHLY INCOME OF A HOUSEHOLD COMPRISED OF AN
25 ADULT PERSON RECEIVING DISABILITY INCOME. ~~ADULT PERSON WITH A DISABILITY WHOSE~~
26 ~~ANNUAL INCOME DOES NOT EXCEED 20 PERCENT OF THE MEDIAN INCOME.~~

27 ([[2]])3 The maximum rental rates shall include an allowance for utilities paid by the tenant.
28 The allowance shall be calculated by the Department based upon the average utility costs
29 prevailing for similar sized units in Howard County. If required by the lease, all utility
30 costs, including those in excess of the allowance, shall be paid by the tenant.

31

1 **Section 13.404. - Sale of moderate income housing unit.**

2 (a) *Initial Sale of Moderate Income Housing Unit—Priority Period.*

3 (1) (i) Except as provided in section 13.407 of this subtitle, the seller of a moderate income
4 housing unit offered for sale shall offer the unit for initial sale for a 120-day priority
5 period through the Department to an eligible purchaser.

6 (ii) During the priority period, the price for the moderate income housing unit shall not
7 exceed the initial price established for the unit under section 13.403 of this subtitle.

8 (iii) THE SALES PRICE SHALL BE BASED ON THE SQUARE FOOTAGE AS CALCULATED BY THE
9 COUNTY FOR PURPOSES OF DETERMINING A UNIT'S BUILDING EXCISE TAX WHEN
10 APPLYING FOR A BUILDING PERMIT.

11 (2) (i) A seller shall notify the Department of the proposed offering and the proposed date on
12 which the priority period will begin.

13 (ii) The notice shall set forth the number of units offered, the location of each unit, a
14 description of the amenities offered in each unit, the sales price and information
15 regarding any mortgage financing available to buyers.

16 (iii) The seller shall also provide a vicinity map of the offering, a copy of the approved
17 subdivision or site development plan, and such other information as required by the
18 Department.

19 (iv) If the Department determines that the notice is incomplete, the Department shall notify
20 the seller within five business days of receipt of the notice. The seller shall submit a
21 complete notice before the priority period begins.

22 (3) Within the priority period, the Department shall provide the seller with the name of an
23 eligible purchaser for each unit.

24 (4) The seller shall make a good faith effort to enter into a contract with the eligible purchaser
25 within the priority period. The contract shall allow the purchaser at least 60 days from the
26 date of the notice provided in paragraph (3) of this subsection to obtain a financing
27 commitment. The contract shall require the seller to make a good faith effort to complete
28 construction of the moderate income housing unit within the time set forth in the
29 purchaser's financing commitment.

1 (5) If the seller fails to make a good faith effort under paragraph (4) of this subsection, the
2 settlement date shall be extended until ten days after the date construction is actually
3 completed.

4 (6) If the eligible purchaser fails to comply with the conditions of the commitment for
5 mortgage financing or fails to enter into a purchase contract, the Department may substitute
6 another eligible purchaser.

7 (7) Any earnest money collected from an eligible purchaser may not exceed \$500.00.

8 (d) *Subsequent Sale of Moderate Income Housing Unit AFTER PRIORITY PERIOD.* A subsequent sale
9 of a moderate income housing unit AFTER THE PRIORITY PERIOD shall be:

10 (1) Offered through the Department to an eligible purchaser at the sale price established under
11 section 13.403 of this subtitle;

12 (2) Subject to the covenants required under subsection 13.402(c) of this subtitle; and

13 (3) Subject to regulations adopted by the Department under this subtitle.

14 (E) *SUBSEQUENT SALE OF A PREVIOUSLY OCCUPIED MODERATE INCOME HOUSING UNIT.* THE
15 SUBSEQUENT SALE OF A PREVIOUSLY OCCUPIED MODERATE INCOME HOUSING UNTIL SHALL BE
16 OFFERED FOR RESALE:

17 (1) SUBJECT TO THE SAME CONDITIONS NOTED IN SUBSECTION (D) OF THIS SECTION;

18 (2) SUBJECT TO A RESALE PRICE LIMIT, AS STATED IN THE PROGRAM REGULATIONS AS
19 FOLLOWS:

20 (i) START WITH THE ORIGINAL PURCHASE PRICE FOR WHICH THE OWNER PURCHASED THE
21 PROPERTY ACCORDING TO THE PURCHASE CONTRACT;

22 (ii) EACH YEAR MULTIPLY THE ORIGINAL PURCHASE PRICE BY THE PERCENTAGE CHANGE IN
23 THE MOST RECENT CPI-U OR IN THE MOST RECENT MEDIAN INCOME WHICHEVER IS LESS-
24 -UP TO A MAXIMUM INCREASE FOR ANY GIVEN YEAR OF 3.5 PERCENT OR A MINIMUM
25 INCREASE FOR ANY GIVEN YEAR OF 1.0 PERCENT;

26 (iii) EACH YEAR ADD THE PRODUCT OF THE MULTIPLICATION ABOVE TO THE ORIGINAL
27 PURCHASE PRICE;

28 (iv) ADD THE COST OF ELIGIBLE CAPITAL IMPROVEMENTS THAT HAVE BEEN APPROVED BY
29 THE COUNTY UP TO THE TIME OF TRANSFER; AND

30 (v) DEDUCT THE AMOUNT OF ANY EXCESSIVE DAMAGE ASSESSMENT.
31

1 **Section 13.405. - Rental of moderate income housing units.**

2 (b) *Application of Rental Restrictions:*

3 (1) The owner of any rental development subject to this subtitle shall ensure that the number
4 of moderate income housing units required under the approved final plan or site
5 development plan are rented or available for rent as moderately priced dwelling units to
6 persons determined to be eligible under section 13.406 of this subtitle.

7 (2) The owner is not required to permanently designate particular units as moderate income
8 housing units in order to meet this requirement.

9 (3) THE OWNER OF ANY RENTAL DEVELOPMENT THAT DOES NOT COMPLY WITH THE
10 RESTRICTIONS REQUIRED BY THIS SUBTITLE MAY BE SUBJECT TO FINES AND PENALTIES, AS
11 STATED IN THE PROGRAM REGULATIONS.

12
13 **Section 13.406. - Eligibility to purchase or rent.**

14 (b) *Qualifications.* An individual shall be eligible to purchase or rent a moderate income housing
15 unit if the individual has a verifiable source of income, agrees to occupy the moderate income
16 housing unit as the principal place of residence, and:

17 (1) Has applied to purchase a moderate income housing unit and has an annual household
18 income equal to or less than 80 percent of the median income; [[or]]

19 (2) Has applied to rent a moderate income housing unit and has an annual household income
20 equal to or less than 60 percent of the median income[.];

21 (3) DOES NOT OWN ANY REAL PROPERTY AT THE TIME OF THE AWARD; OR

22 (4) DOES NOT HAVE SUFFICIENT ASSETS TO PURCHASE A MARKET RATE UNIT.

23 (c) *Prospective Purchasers—Notification.* An individual seeking to purchase a moderate income
24 housing unit shall apply to the Department for placement [[on the waiting list]]IN A DATABASE
25 maintained by the Department. The Department shall maintain the [[waiting list]] DATABASE by
26 date of application and household size. When a moderate income housing unit becomes available,
27 the Department shall notify each eligible purchaser identified in accordance with subsection (f) of
28 this section of the availability.

29 (e) *Same—Selection by Department:*

30 (1) The Department shall select an eligible purchaser to purchase each available moderate
31 income housing unit.

1 (2) In selecting an eligible purchaser the Department shall give priority to those:

2 (i) With the lowest incomes who qualify for mortgage financing available at the time;

3 (ii) Who are first-time home buyers applying to purchase a moderate income unit;

4 (iii) Who reside and work in Howard County;

5 (iv) Who work in Howard County;

6 (v) Who reside in Howard County;

7 (vi) Who are employed by:

8 a. Howard County Government;

9 b. Board of Education of Howard County;

10 c. Howard Community College;

11 d. Howard County Library Board of Trustees;

12 e. Howard County Economic Development Authority;

13 f. Howard County Health Department;

14 g. THE HOWARD COUNTY HOUSING COMMISSION;

15 [[g]]h. Howard County Department of Social Services; or

16 [[h]]i. A nonprofit entity that is:

17 1. Organized or operated for the purpose of providing health and human services
18 to any group of persons residing in Howard County; and

19 2. Designated as an entity eligible to receive this preference by Department
20 regulations;

21 (vii) Who are displaced, within one year prior to application for a certificate of
22 eligibility, by the closure of a mobile home park adjacent to Route 1;

23 (viii) Who are participants in the Federal Family Self-Sufficiency Program authorized by
24 42 U.S.C. 1437U and 24 C.F.R. Part 984 as administered by the Commission; and

25 (ix) Who have been [[on the waiting list]] IN THE DATABASE for the longest duration.

26 (G) PURCHASERS WHO DO NOT LIVE IN THE MODERATE INCOME HOUSING UNIT AS THEIR PRIMARY
27 RESIDENCE MAY BE SUBJECT TO PENALTIES, INCLUDING BUT NOT LIMITED TO RESELLING THE UNIT
28 BACK THROUGH THE PROGRAM TO AN ELIGIBLE PURCHASER, AS STATED IN THE PROGRAM
29 REGULATIONS.

30
31 **Section 13.408. - Foreclosures; waiver.**

1 (a) Notice to Department. Before a moderate income housing [[unit]] DEVELOPMENT is sold in
2 foreclosure proceedings, the person authorized to make the sale shall notify the Department by
3 certified mail of the time, place, and terms of the sale. The notice shall be [[set]] SENT not later than
4 [[ten]] TWENTY days before the date of the sale.

5 (b) *Restrictions Terminate after Sale.* If a moderate income housing unit is sold in foreclosure
6 proceedings, the restrictions of this subtitle shall terminate and, if notice was received under
7 subsection (a) of this section, the County Executive shall execute a release of the covenants on the
8 property. Proceeds of the sale of the moderate income housing unit are paid to the County as
9 follows:

10 (1) For a unit originally offered for sale, all proceeds in excess of the initial sale price at the
11 time of the foreclosure sale, plus the reasonable and actual costs and fees of foreclosure;
12 and

13 (2) For a DEVELOPMENT OF RENTAL UNITS [[rental unit]], all proceeds attributable to [[the]] A
14 unit that are in excess of the initial sale price that would have been permitted if the unit had
15 been originally offered for sale, as determined by the Department, plus the reasonable and
16 actual costs and fees of foreclosure attributable to the rental unit.

17
18 **Section 13.409. - Regulations.**

19 The Department shall adopt, in accordance with the Administrative Procedure Act, the
20 regulations necessary to implement and administer this subtitle, including regulations to establish:

- 21 (1) The form of a co-ownership agreement;
- 22 (2) Criteria for determining the eligibility of prospective purchasers or renters of moderate
23 income housing units;
- 24 (3) A process for the selection and notification of eligible purchasers;
- 25 (4) Standard terms of moderate income housing unit agreements;
- 26 (5) Criteria for determining the resale price of a moderate income housing unit and procedures
27 for the subsequent resale;
- 28 (6) CRITERIA FOR ENFORCEMENT OF THE OWNER OCCUPANCY REQUIREMENT, INCLUDING
29 PENALTIES, FOR MODERATE INCOME HOUSING UNITS;
- 30 (7) CRITERIA FOR ENFORCEMENT, INCLUDING PENALTIES AND FINES FOR NON-COMPLIANCE, OF
31 THE MODERATE INCOME HOUSING UNIT RENTAL REQUIREMENTS.

1 (8) CRITERIA FOR CAPITAL IMPROVEMENTS AND EXCESSIVE DAMAGE FOR MODERATE INCOME
2 HOUSING UNITS;

3 ~~[(6)]~~(9) Criteria for determining designees;

4 ~~[(7)]~~(10) Minimum specifications for moderate income housing units;

5 ~~[(8)]~~(11) Criteria governing allocation of units if more than one designee applies to exercise
6 an option under subsection 13.407(c) of this subtitle;

7 ~~[(9)]~~(12) A co-ownership program for designees in accordance with subsection 13.407(j) of
8 this subtitle;

9 ~~[(10)]~~(13) Criteria for the sale or rental of a moderate income housing unit under section
10 13.407 of this subtitle;

11 ~~[(11)]~~(14) Criteria for administering the moderate income housing unit community
12 revitalization program; and

13 ~~[(12)]~~(15) Criteria for subsidy funds created by Continuing Care Retirement Communities
14 under subsection ~~[[13.402(l)]]~~ 13.406A of this subtitle.

15
16 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
17 *this Act shall become effective 61 days after its enactment.*

Amendment 1 to Council Bill No. 50-2019

BY: The Chairperson at the request
of the County Executive

Legislative Day 13
Date: November 4, 2019

Amendment No. 1

(This amendment corrects the definition of disability income and adds the Office of Transportation as an agency that will review a request to provide Disability Income Housing Units as an optional method.)

1 On page 2, strike lines 26 through 30, inclusive and in their entirety and substitute:

2 “(F) DISABILITY INCOME MEANS AN ANNUAL HOUSEHOLD INCOME OF UP TO 20 PERCENT OF THE
3 MEDIAN INCOME IN HOWARD COUNTY COMPRISED, IN PART, FROM A CASH PAYMENT OF
4 SUPPLEMENTAL SECURITY INCOME (SSI) OR SOCIAL SECURITY DISABILITY INCOME (SSDI).

5 (G) DISABILITY INCOME HOUSING UNIT (DIHU) MEANS A DWELLING UNIT OFFERED FOR RENT TO A
6 HOUSEHOLD WITH AN ADULT PERSON RECEIVING DISABILITY INCOME.”.

7

8 On page 5, in line 11, after “WITH” insert “THE ADMINISTRATOR OF THE OFFICE OF
9 TRANSPORTATION,”.

10

11 On page 11, strike lines 18 and 19 inclusive and in their entirety and insert:

12 “ADULT PERSON RECEIVING DISABILITY INCOME.”.

ADOPTED November 4, 2019

FAILED _____

SIGNATURE Diane A. Jones

Introduced October 7, 2019
Public Hearing October 21, 2019
Council Action November 4, 2019
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 12

Bill No. 50-2019

Introduced by: The Chairperson at the request of the County Executive

AN ACT defining certain terms such as disability income, disability income housing unit, low income and low income housing unit; providing for Disability Income Housing Units as an optional method of providing moderate income housing units in certain instances; providing for certain numbers of units when Disability Income Housing Units are used; adding a unit type and size for student units that are used as a Moderate Income Housing Unit offered for sale or rent; amending certain prohibited transfers to allow that certain types of entities that are formed to receive low income housing tax credits may use optional or alternative methods; amending the fee in lieu to clarify the basis for the computation of square footage used to determine the rate; clarifying when the fee in lieu will be paid; providing that the fee in lieu can be used for grants to the Housing Commission or local nonprofits; amending how many days the Department shall use when calculating the prevailing interest rate; providing that the Department shall establish rental rates for Disability Income Housing Units that shall be based on monthly income; clarifying that sales prices shall be based on certain square footage; establishing the pricing for the subsequent sale of previously occupied Moderate Income Housing Units, under certain conditions; providing for certain fines and penalties; adding certain qualifications to be eligible to purchase or rent; including employees of the Housing Commission as those who will receive certain priority; providing that purchasers who do not reside in their unit shall be subject to certain penalties; requiring that Regulations contain certain criteria; making certain technical corrections; and generally related to moderate income housing in Howard County.

Introduced and read first time October 7, 2019. Ordered posted and hearing scheduled _____
By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to the Charter, the Bill was read for a second time at a public hearing on October 21, 2019.
By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

This Bill was read the third time on November 4 2019 and Passed _____, Passed with amendments X, Failed _____.
By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 6th day of November, 2019 at 2:45 a.m. (m)
By order _____
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive _____, 2019

Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland that the Howard
2 County Code is amended as follows:

3
4 By amending Title 13 "Housing and Community Development"
5 Section 13.401 "Definitions."

6
7 By amending Title 13 "Housing and Community Development"
8 Section 13.402 "Development procedures; moderate income housing unit agreement;
9 alternative."
10 Subsections (b), (e) and (f)

11
12 By amending Title 13 "Housing and Community Development"
13 Section 13.402C "Alternatives to moderate income housing unit obligation in certain
14 zones."
15 Subsection (e)

16
17 By amending Title 13 "Housing and Community Development"
18 Section 13.403 "Prices for moderate income housing units offered for sale; rates for
19 rental units."

20
21 By amending Title 13 "Housing and Community Development"
22 13.404 "Sale of moderate income housing unit."
23 Subsections (a) and (d)

24
25 By adding subsection (e) to Title 13 "Housing and Community Development"
26 13.404 "Sale of moderate income housing unit."

27
28 By amending Title 13 "Housing and Community Development"
29 13.405 "Rental of moderate income housing units."
30 Subsection (b)

1 By amending Title 13 "Housing and Community Development"

2 13.406 "Eligibility to purchase or rent."

3 Subsections (b), (c) and (e)

4
5 By adding subsection (g) to Title 13 "Housing and Community Development"

6 13.406 "Eligibility to purchase or rent."

7
8 By amending Title 13 "Housing and Community Development"

9 13.408 "Foreclosures; waiver"

10 Subsection (a) and (b)

11
12 By amending Title 13 "Housing and Community Development"

13 13.409 "Regulations."

14
15 **Title 13. Housing and community development.**

16 **Subtitle 4. Moderate Income Housing Units**

17
18 **Section 13.401. Definitions.**

19 (a) *In General.* In this subtitle, the following words have the meanings indicated:

20 (b) *Commission* means the Howard County Housing Commission.

21 (c) *Department* means the Howard County Department of Housing and Community Development.

22 (d) *Designee* means the Howard County Housing Commission, a nonprofit corporation, or a quasi-
23 public housing development organization designated by the Department as eligible to operate and
24 maintain moderate income housing units on a long-term basis.

25 (e) *Director* means the Director of the Department of Housing and Community Development.

26 (f) *DISABILITY INCOME* MEANS AN ANNUAL HOUSEHOLD INCOME OF UP TO 20 PERCENT OF THE
27 MEDIAN INCOME IN HOWARD COUNTY.

28 (g) *DISABILITY INCOME HOUSING UNIT (DIHU)* MEANS A DWELLING UNIT OFFERED FOR RENT TO AN
29 ADULT PERSON WITH A DISABILITY RECEIVING A CASH PAYMENT OF SUPPLEMENTAL SECURITY
30 INCOME (SSI) OR SOCIAL SECURITY DISABILITY INCOME (SSDI).

31 (h) *Dwelling unit* has the meaning stated in the Howard County Zoning Regulations.

1 ([g]) *Eligible purchaser* means a holder of a certificate of eligibility under section 13.406 of
2 this subtitle who has been prequalified by the Department to obtain a mortgage in an amount
3 sufficient to enable the individual to purchase a moderate income housing unit. ELIGIBLE
4 PURCHASERS CANNOT OWN ANY OTHER REAL PROPERTY AT THE TIME THEY ARE AWARDED A
5 MODERATE INCOME HOUSING UNIT.

6 ([h]) *First time home buyer* means an individual who, during the three years before receiving a
7 certificate of eligibility:

8 (1) Has not owned any property used or usable as a residence; or

9 (2) Has owned a personal residence but, because of the separation or divorce of the joint
10 tenants or the death of one of the joint tenants, needs to purchase a personal residence
11 without the former joint tenant.

12 ([i]) *Initial sale price* means the price set by the Housing and Community Development Board
13 under section 13.403 of this subtitle for the first sale of a type of moderate income housing unit.

14 (L) *LOW INCOME* MEANS AN ANNUAL HOUSEHOLD INCOME OF UP TO 60 PERCENT OF THE MEDIAN
15 INCOME IN HOWARD COUNTY.

16 (M) *LOW INCOME HOUSING UNIT* MEANS A DWELLING UNIT OFFERED FOR SALE OR RENT TO
17 HOUSEHOLDS WITH LOW INCOMES.

18 ([j]) *Median income* means the median annual income of Howard County as determined by the
19 U.S. Census Bureau.

20 ([k]) *Moderate income* means an annual household income of up to 80 percent of the median
21 income in Howard County.

22 ([l]) *Moderate income housing unit (MIHU)* means a dwelling unit offered for sale or rent to
23 households with moderate incomes.

24 ([m]) *Moderate income housing unit offered for sale* means a unit that is built on a subdivided
25 lot or subject to a condominium regime, as provided in a moderate income housing unit agreement
26 under subsection 13.402(b) of this subtitle.

27 ([n]) *Proffered unit* means a moderate income housing unit in a development for which the
28 provision of moderate income housing is proffered by the petitioner and made a condition of
29 approval in a preliminary development plan approved by the Zoning Board.

30 ([o]) *Rehabilitated existing moderate income housing unit* means an existing residential housing
31 unit that has been determined by the Department of Housing and Community Development to have

1 met the specified eligibility criteria and rehabilitation requirements for such units as provided in
2 this subtitle and that is subject to and bound to comply with all of the requirements in this subtitle
3 applicable to newly built moderate income housing units.

4 ([[p]]) *Rental unit* means a moderate income housing unit that is not a moderate income housing
5 unit offered for sale.

6
7 **Section 13.40 Development procedures; moderate income housing unit agreement;
8 alternative.**

9 (b) *Moderate Income Housing Unit Agreement.* The moderate income housing unit agreement
10 under this section shall be in a form prescribed by the Department and shall include:

- 11 (1) A statement of the number of moderate income housing units required under the zoning
12 regulations;
- 13 (2) A requirement that the developer comply with the minimum specifications for moderate
14 income housing units established by the Department;
- 15 (3) A plan for construction of moderate income housing units offered for sale and rental units,
16 which shall, to the extent practicable, [[taking into account]] CONSIDER current market
17 conditions, the needs of eligible purchasers, and planning considerations, require that
18 each phase of the development contain a proportionate share of the total number of
19 moderate income housing units required under the approved final plan or site
20 development plan; and
- 21 (4) A statement of how moderate income housing units will be provided that shall include
22 the number of units, types of units, and location of units.

23 (e) *Optional Methods:*

- 24 (1) A developer required to provide moderate income housing units under the zoning
25 regulations may request permission to provide the required units:
- 26 (i) At a different location; [[or]]
27 (ii) As a different ratio of unit types[.];OR
28 (iii) AS DISABILITY INCOME HOUSING UNITS.
- 29 (2) A developer may use an optional method under this subsection if the Director, upon
30 recommendation from the Housing and Community Development Board and in

1 consultation with the Director of Planning and Zoning and the Director of Community
2 Resources and Services, determines that:

- 3 (i) a. The number of moderate income housing units to be constructed in the
4 development will render the development economically unfeasible; or
5 b. The development proposes an indivisible package of services and facilities to all
6 residents that would cost the moderate income housing unit owners so much that
7 the units would be rendered unaffordable to eligible purchasers; and
8 (ii) The optional method results in geographic distribution of moderate income housing
9 units throughout the County.

10 (3) A DEVELOPER MAY USE DISABILITY INCOME HOUSING UNITS AS AN OPTIONAL METHOD
11 UNDER THIS SUBSECTION IF THE DIRECTOR, IN CONSULTATION WITH THE DIRECTOR OF
12 COMMUNITY RESOURCES AND SERVICES AND THE DIRECTOR OF PLANNING AND ZONING,
13 DETERMINES THAT THERE IS A NEED FOR THE PROPOSED DISABILITY INCOME HOUSING
14 UNITS.

15 (([3])4) A developer who uses an optional method of providing moderate income housing
16 units in accordance with paragraph (1) of this subsection shall calculate the number of
17 units to be provided as set forth below:

- 18
19 (i) For every one moderate income single-family detached housing unit required by the
20 zoning regulations, the requirement shall be increased by the multiplier in the
21 following chart:

Type of Unit	On-site	Off-site
Single Family Detached	Not Applicable	1.5 Moderate Income HOUSING Units
Single Family Attached	1.5 Moderate Income HOUSING Units	1.75 Moderate Income HOUSING Units
Apartment	1.75 Moderate Income HOUSING Units	2.0 Moderate Income HOUSING Units

- 22 (ii) For every one single-family attached moderate income housing unit required by
23 the zoning regulations, the requirement shall be increased by the multiplier in the
24 following chart:

Type of Unit	On-site	Off-site
Single Family Attached	[[Not Applicable]] 0.33 DISABILITY INCOME HOUSING UNITS	1.5 Moderate Income HOUSING Units
Apartment	1.5 Moderate Income HOUSING Units OR 0.4 DISABILITY INCOME HOUSING UNITS	1.75 Moderate Income HOUSING Units

(iii) For every one moderate income apartment required by the zoning regulations, the requirement shall be modified by the multiplier in the following chart:

Type of Unit	On-site	Off-site, Apartment Units
Apartment	[[Not Applicable]]0.4 DISABILITY INCOME HOUSING UNIT	1.5 Moderate Income HOUSING Units
[[Single Family Attached]]	[[Not Applicable]]	[[.67 Moderate income Units]]

(l) *Prohibited Transfers.* A developer using an optional or alternative method of compliance may not provide the required moderate income housing units on property:

- (1) Wholly owned by the Howard County Housing Commission;
 - (2) [[Owned by a limited partnership or limited liability company formed solely for the purpose of obtaining the benefit of low income housing tax credits under section 42 of the Internal Revenue Code and in which the Commission is the general partner or managing member;
 - (3)]]Owned by the County; or
- (((4)]3) In a census tract block group where the poverty level is ten percent or greater according to the most recent census.

Section 13.402C. - Alternatives to moderate income housing unit obligation in certain zones.

(e) *Fee-In-Lieu.* The developer may pay a fee-in-lieu to the Department for each unit in the development or portion of the development that is not providing MIHUs on-site:

- (1) [[The fee-in-lieu for Fiscal Year 2014 shall be \$2.00 per square foot of residential space for each unit in the development as calculated for the building excise tax, section 20, subtitle 5 of the Howard County Code of Maryland]] THE FEE-IN-LIEU SHALL BE BASED

1 ON THE SQUARE FOOTAGE CALCULATED BY THE COUNTY FOR PURPOSES OF DETERMINING A
2 UNIT'S BUILDING EXCISE TAX WHEN APPLYING FOR A BUILDING PERMIT FOR THE
3 DEVELOPMENT;

- 4 (2) The fee-in-lieu shall be set yearly by Council resolution based upon the percentage of
5 increase in the ENR Construction Cost Index for the Baltimore Region as reported in
6 ENR, Engineering News Record;
- 7 (3) The fee-in-lieu shall be published on the County's website together with the base sales
8 prices and rents for moderate income housing units;
- 9 (4) If the developer chooses to provide a portion of the required MIHUs on site, the fee shall
10 be prorated accordingly.
- 11 (5) Except as provided in paragraph (a) of this section, a developer may not pay a fee in lieu
12 of a single-family attached or apartment moderate income housing unit except in an age-
13 restricted adult housing or planned senior community;
- 14 (6) A developer shall pay the fee-in-lieu [[before a use and occupancy permit may be issued
15 for any unit in the development]] FOR EACH UNIT WHEN A BUILDING PERMIT APPLICATION
16 IS SUBMITTED;
- 17 (7) The fee-in-lieu collected by the Department shall be used for the following:
- 18 (i) The Settlement Downpayment Loan Program;
 - 19 (ii) The Rehabilitation Loan Program;
 - 20 (iii) Grants to other County entities, THE HOWARD COUNTY HOUSING COMMISSION OR
21 LOCAL NON-PROFITS for rental housing subsidies, the purchase and rehabilitation of
22 existing properties for sale or rent to low or moderate income households, emergency
23 eviction support, or other housing opportunities for low and moderate income
24 households; and
- 25 (8) By February 1 of each year, the Department shall provide a detailed annual report to the
26 Council of each collection and expenditure of all fee-in-lieu funds for the prior calendar
27 year.
- 28 (9) In census tract block group where the poverty level is ten percent or greater according to
29 the most recent census, the fee-in-lieu collected by the Department shall be used only for
30 the Settlement Downpayment Loan Program and the Rehabilitation Loan Program.

1 **Section 13.403. - Prices for moderate income housing units offered for sale; rates for rental**
 2 **units.**

3 (a) *Base Prices for Moderate Income Housing Units Offered for Sale.* The base sale price for a
 4 moderate income housing unit shall be determined by the Housing and Community
 5 Development Board in accordance with this subsection.

- 6 (1) Twice a year, the Board shall establish the base sale price for each type of moderate
 7 income housing unit offered for sale.
- 8 (2) Before establishing the base sale price under this subsection, the Board shall provide
 9 information concerning the real property tax, insurance, and interest rate factors it
 10 proposes to use in establishing the base sale price on the County's website.
- 11 (3) Before establishing the base sale price for moderate income housing units located in
 12 planned senior communities and age-restricted adult housing developments, the Board
 13 shall consult with the Office on Aging and Independence.
- 14 (4) The Department shall provide to the Board information concerning current real property
 15 tax and insurance rates.
- 16 (5) The base sale prices for moderate income housing units shall be based upon:
 17 (i) A base size unit of the following types:

Type	Number of Bedrooms	Moderate Income Units—Base Size (sq. ft.)
Single-family detached	2	1,540
	3	1,680
	4	1,820
Semi-detached (duplex) and single-family attached (townhouse)	2	1,500
	3	1,640
	4	1,780
Back-to-back single-family attached (townhouse)	2	1,400
	3	1,540
Apartments	1	750
	2	950

	3	1,100
STUDIO	0	600

(i) Factors established annually by the Board, for:

a. Real property taxes; and

b. Insurance rates;

(ii) Factors established twice a year by the Board for:

a. Interest rates on FHA 30-year mortgages; and

b. FHA mortgage insurance premiums, as determined by the United States Department of Housing and Urban Development; and

(iv) An average of the homeowners' association fees or condo fees charged for similar units in the market, based on an annual survey of fees.

(6) The Department shall provide to the Board the price at which an eligible purchaser with a household income equal to the following percentages of median income, adjusted by family size appropriate to the size and number of bedrooms in the dwelling unit, can afford to purchase a dwelling unit:

(i) Seventy percent for proffered units and single-family homes;

(ii) Sixty-five percent for semi-detached (duplexes) and single-family attached (townhomes); and

(iii) Fifty percent for apartments (condominiums).

(7) For the purposes of this subsection:

(i) A purchaser can afford to purchase a dwelling unit if the purchaser's monthly income would qualify the purchaser to obtain a 30-year fixed rate mortgage at the prevailing interest rate in an amount sufficient to pay 97 percent of the purchase price of the unit;

(ii) A purchaser's monthly income qualifies for a mortgage if the monthly payment required to pay (1) the monthly principal and interest of the mortgage loan, plus (2) the monthly payment of taxes and insurance on the property, calculated in accordance with the factors established by the Department under subsection (a) of this section, plus (3) the monthly payment of homeowners or condominium association fees, plus

- 1 (4) the monthly payment of the FHA mortgage insurance premium, does not exceed
2 28 percent of the purchaser's monthly income; and
- 3 (iii) The prevailing interest rate is the prevailing mortgage interest rate for FHA-insured
4 30-year fixed-rate mortgages in the Baltimore Metropolitan Area with zero points.
5 The Department shall calculate the prevailing interest rate by surveying, twice a year,
6 at least three mortgage lenders and two banks for THE PREVIOUS BUSINESS DAY [[at
7 least three consecutive business days]].
- 8 (8) The Board shall determine the prevailing interest rate as of December 1 and June 1 of
9 each year.
- 10 (9) As determined by the regulations of the Department and subject to paragraph (11) of this
11 subsection, an increase in the base sales price of a moderate income housing unit may be
12 made for the following upgrades in size, design, or amenities provided that the Board
13 determines that they are necessary to ensure the compatibility of the moderate income
14 housing unit with the development's market rate units AND SIZE SHALL BE THE SQUARE
15 FOOTAGE CALCULATED BY THE COUNTY FOR PURPOSES OF DETERMINING A UNIT'S
16 BUILDING EXCISE TAX WHEN APPLYING FOR A BUILDING PERMIT:
- 17 (i) Single-family attached (townhouse OR CONDOMINIUM) units that are larger than the
18 base size established by this section;
- 19 (ii) Additional bathrooms or powder rooms; AND
- 20 [[(iii) Finished basements;
- 21 (iv) Garages in single-family attached (townhouse) units; and
- 22 (v)] (iii) Other upgrades in design or amenities that are necessary to ensure architectural
23 compatibility with the development's market rate [[unit] UNITS.
- 24 (10) As determined by regulations of the Department and subject to paragraph (11) of this
25 subsection, an increase in the base sales price of a moderate income housing unit may be
26 made if the homeowners' association or condominium association fees applicable to the
27 unit are less than the average of the homeowners' association fees or condominium fees
28 charged for similar units in the market, as determined by the Department.
- 29 (11) Any increase in the base sales price of a moderate income housing unit may not exceed:
- 30 (i) Fifty percent of the base sales price for apartment (condominium) units

1 (ii) Twenty percent of the base sales price for semi-detached (duplex) and single-family
2 attached (townhouse) units; and

3 (iii) Ten percent of the base sales price for single-family detached and proffered units.

4 (12) As determined by regulations of the Department, a reduction in the base sales price of a
5 moderate income housing unit shall be made:

6 (i) For units that are smaller than the base size established by this section; OR

7 (ii) [[For single-family detached units, semi-detached (duplex) units, and single-family
8 attached (townhouse) units without basements; or

9 (iii)] If the homeowners' association or condominium association fees applicable to the
10 unit are more than the average of the homeowners' association fees or condominium
11 fees charged for similar units in the market, as determined by the Department.

12 (b) *Rates for Rental Units:*

13 (1) The Department shall establish maximum rates for rental units, by bedroom size, that are
14 equal to 30 percent of the monthly income of a household whose annual income does not
15 exceed 60 percent of the median income.

16 (2) THE DEPARTMENT SHALL ESTABLISH MAXIMUM RATES FOR DIHU RENTAL UNITS THAT ARE
17 EQUAL TO 30 PERCENT OF THE MONTHLY INCOME OF A HOUSEHOLD COMPRISED OF AN
18 ADULT PERSON WITH A DISABILITY WHOSE ANNUAL INCOME DOES NOT EXCEED 20 PERCENT
19 OF THE MEDIAN INCOME.

20 ([[2]]3) The maximum rental rates shall include an allowance for utilities paid by the tenant.
21 The allowance shall be calculated by the Department based upon the average utility costs
22 prevailing for similar sized units in Howard County. If required by the lease, all utility
23 costs, including those in excess of the allowance, shall be paid by the tenant.

24
25 **Section 13.404. - Sale of moderate income housing unit.**

26 (a) *Initial Sale of Moderate Income Housing Unit—Priority Period.*

27 (1) (i) Except as provided in section 13.407 of this subtitle, the seller of a moderate income
28 housing unit offered for sale shall offer the unit for initial sale for a 120-day priority
29 period through the Department to an eligible purchaser.

30 (ii) During the priority period, the price for the moderate income housing unit shall not
31 exceed the initial price established for the unit under section 13.403 of this subtitle.

- 1 (iii) THE SALES PRICE SHALL BE BASED ON THE SQUARE FOOTAGE AS CALCULATED BY THE
2 COUNTY FOR PURPOSES OF DETERMINING A UNIT'S BUILDING EXCISE TAX WHEN
3 APPLYING FOR A BUILDING PERMIT.
- 4 (2) (i) A seller shall notify the Department of the proposed offering and the proposed date on
5 which the priority period will begin.
- 6 (ii) The notice shall set forth the number of units offered, the location of each unit, a
7 description of the amenities offered in each unit, the sales price and information
8 regarding any mortgage financing available to buyers.
- 9 (iii) The seller shall also provide a vicinity map of the offering, a copy of the approved
10 subdivision or site development plan, and such other information as required by the
11 Department.
- 12 (iv) If the Department determines that the notice is incomplete, the Department shall notify
13 the seller within five business days of receipt of the notice. The seller shall submit a
14 complete notice before the priority period begins.
- 15 (3) Within the priority period, the Department shall provide the seller with the name of an
16 eligible purchaser for each unit.
- 17 (4) The seller shall make a good faith effort to enter into a contract with the eligible purchaser
18 within the priority period. The contract shall allow the purchaser at least 60 days from the
19 date of the notice provided in paragraph (3) of this subsection to obtain a financing
20 commitment. The contract shall require the seller to make a good faith effort to complete
21 construction of the moderate income housing unit within the time set forth in the
22 purchaser's financing commitment.
- 23 (5) If the seller fails to make a good faith effort under paragraph (4) of this subsection, the
24 settlement date shall be extended until ten days after the date construction is actually
25 completed.
- 26 (6) If the eligible purchaser fails to comply with the conditions of the commitment for
27 mortgage financing or fails to enter into a purchase contract, the Department may substitute
28 another eligible purchaser.
- 29 (7) Any earnest money collected from an eligible purchaser may not exceed \$500.00.
- 30 (d) *Subsequent Sale of Moderate Income Housing Unit AFTER PRIORITY PERIOD.* A subsequent sale
31 of a moderate income housing unit AFTER THE PRIORITY PERIOD shall be:

1 (1) Offered through the Department to an eligible purchaser at the sale price established under
2 section 13.403 of this subtitle;

3 (2) Subject to the covenants required under subsection 13.402(c) of this subtitle; and

4 (3) Subject to regulations adopted by the Department under this subtitle.

5 (E) *SUBSEQUENT SALE OF A PREVIOUSLY OCCUPIED MODERATE INCOME HOUSING UNIT.* THE
6 SUBSEQUENT SALE OF A PREVIOUSLY OCCUPIED MODERATE INCOME HOUSING UNIT SHALL BE
7 OFFERED FOR RESALE:

8 (1) SUBJECT TO THE SAME CONDITIONS NOTED IN SUBSECTION (D) OF THIS SECTION;

9 (2) SUBJECT TO A RESALE PRICE LIMIT, AS STATED IN THE PROGRAM REGULATIONS AS
10 FOLLOWS:

11 (i) START WITH THE ORIGINAL PURCHASE PRICE FOR WHICH THE OWNER PURCHASED THE
12 PROPERTY ACCORDING TO THE PURCHASE CONTRACT;

13 (ii) EACH YEAR MULTIPLY THE ORIGINAL PURCHASE PRICE BY THE PERCENTAGE CHANGE IN
14 THE MOST RECENT CPI-U OR IN THE MOST RECENT MEDIAN INCOME WHICHEVER IS LESS-
15 -UP TO A MAXIMUM INCREASE FOR ANY GIVEN YEAR OF 3.5 PERCENT OR A MINIMUM
16 INCREASE FOR ANY GIVEN YEAR OF 1.0 PERCENT;

17 (iii) EACH YEAR ADD THE PRODUCT OF THE MULTIPLICATION ABOVE TO THE ORIGINAL
18 PURCHASE PRICE;

19 (iv) ADD THE COST OF ELIGIBLE CAPITAL IMPROVEMENTS THAT HAVE BEEN APPROVED BY
20 THE COUNTY UP TO THE TIME OF TRANSFER; AND

21 (v) DEDUCT THE AMOUNT OF ANY EXCESSIVE DAMAGE ASSESSMENT.

22
23 **Section 13.405. - Rental of moderate income housing units.**

24 (b) *Application of Rental Restrictions:*

25 (1) The owner of any rental development subject to this subtitle shall ensure that the number
26 of moderate income housing units required under the approved final plan or site
27 development plan are rented or available for rent as moderately priced dwelling units to
28 persons determined to be eligible under section 13.406 of this subtitle.

29 (2) The owner is not required to permanently designate particular units as moderate income
30 housing units in order to meet this requirement.

1 (3) THE OWNER OF ANY RENTAL DEVELOPMENT THAT DOES NOT COMPLY WITH THE
2 RESTRICTIONS REQUIRED BY THIS SUBTITLE MAY BE SUBJECT TO FINES AND PENALTIES, AS
3 STATED IN THE PROGRAM REGULATIONS.
4

5 **Section 13.40 - Eligibility to purchase or rent.**

6 (b) *Qualification.* An individual shall be eligible to purchase or rent a moderate income housing
7 unit if the individual has a verifiable source of income, agrees to occupy the moderate income
8 housing unit as the principal place of residence, and:

- 9 (1) Has applied to purchase a moderate income housing unit and has an annual household
10 income equal to or less than 80 percent of the median income; [[or]]
11 (2) Has applied to rent a moderate income housing unit and has an annual household income
12 equal to or less than 60 percent of the median income[.];
13 (3) DOES NOT OWN ANY REAL PROPERTY AT THE TIME OF THE AWARD; OR
14 (4) DOES NOT HAVE SUFFICIENT ASSETS TO PURCHASE A MARKET RATE UNIT.

15 (c) *Prospective Purchasers—Notification.* An individual seeking to purchase a moderate income
16 housing unit shall apply to the Department for placement [[on the waiting list]]IN A DATABASE
17 maintained by the Department. The Department shall maintain the [[waiting list]] DATABASE by
18 date of application and household size. When a moderate income housing unit becomes available,
19 the Department shall notify each eligible purchaser identified in accordance with subsection (f) of
20 this section of the availability.

21 (e) *Same—Selection by Department:*

- 22 (1) The Department shall select an eligible purchaser to purchase each available moderate
23 income housing unit.
24 (2) In selecting an eligible purchaser the Department shall give priority to those:
25 (i) With the lowest incomes who qualify for mortgage financing available at the time;
26 (ii) Who are first-time home buyers applying to purchase a moderate income unit;
27 (iii) Who reside and work in Howard County;
28 (iv) Who work in Howard County;
29 (v) Who reside in Howard County;
30 (vi) Who are employed by:
31 a. Howard County Government;

- b. Board of Education of Howard County;
- c. Howard Community College;
- d. Howard County Library Board of Trustees;
- e. Howard County Economic Development Authority;
- f. Howard County Health Department;
- G. THE HOWARD COUNTY HOUSING COMMISSION;
- [[g]]H. Howard County Department of Social Services; or
- [[h]]I. A nonprofit entity that is:

- 1. Organized or operated for the purpose of providing health and human services to any group of persons residing in Howard County; and
- 2. Designated as an entity eligible to receive this preference by Department regulations;

- (vii) Who are displaced, within one year prior to application for a certificate of eligibility, by the closure of a mobile home park adjacent to Route 1;
- (viii) Who are participants in the Federal Family Self-Sufficiency Program authorized by 42 U.S.C. 1437U and 24 C.F.R. Part 984 as administered by the Commission; and
- (ix) Who have been [[on the waiting list]] IN THE DATABASE for the longest duration.

(G) PURCHASERS WHO DO NOT LIVE IN THE MODERATE INCOME HOUSING UNIT AS THEIR PRIMARY RESIDENCE MAY BE SUBJECT TO PENALTIES, INCLUDING BUT NOT LIMITED TO RESELLING THE UNIT BACK THROUGH THE PROGRAM TO AN ELIGIBLE PURCHASER, AS STATED IN THE PROGRAM REGULATIONS.

Section 13.408. - Foreclosures; waiver.

(a) Notice to Department. Before a moderate income housing [[unit]] DEVELOPMENT is sold in foreclosure proceedings, the person authorized to make the sale shall notify the Department by certified mail of the time, place, and terms of the sale. The notice shall be [[set]]SENT not later than [[ten]]TWENTY days before the date of the sale.

(b) *Restrictions Terminate after Sale.* If a moderate income housing unit is sold in foreclosure proceedings, the restrictions of this subtitle shall terminate and, if notice was received under subsection (a) of this section, the County Executive shall execute a release of the covenants on the

1 property. Proceeds of the sale of the moderate income housing unit are paid to the County as
2 follows:

3 (1) For a unit originally offered for sale, all proceeds in excess of the initial sale price at the
4 time of the foreclosure sale, plus the reasonable and actual costs and fees of foreclosure;
5 and

6 (2) For a DEVELOPMENT OF RENTAL UNITS [[rental unit]], all proceeds attributable to [[the]]A
7 unit that are in excess of the initial sale price that would have been permitted if the unit had
8 been originally offered for sale, as determined by the Department, plus the reasonable and
9 actual costs and fees of foreclosure attributable to the rental unit.

10

11 **Section 13.409. - Regulations.**

12 The Department shall adopt, in accordance with the Administrative Procedure Act, the
13 regulations necessary to implement and administer this subtitle, including regulations to establish:

14 (1) The form of a co-ownership agreement;

15 (2) Criteria for determining the eligibility of prospective purchasers or renters of moderate
16 income housing units;

17 (3) A process for the selection and notification of eligible purchasers;

18 (4) Standard terms of moderate income housing unit agreements;

19 (5) Criteria for determining the resale price of a moderate income housing unit and procedures
20 for the subsequent resale;

21 (6) CRITERIA FOR ENFORCEMENT OF THE OWNER OCCUPANCY REQUIREMENT, INCLUDING
22 PENALTIES, FOR MODERATE INCOME HOUSING UNITS;

23 (7) CRITERIA FOR ENFORCEMENT, INCLUDING PENALTIES AND FINES FOR NON-COMPLIANCE, OF
24 THE MODERATE INCOME HOUSING UNIT RENTAL REQUIREMENTS.

25 (8) CRITERIA FOR CAPITAL IMPROVEMENTS AND EXCESSIVE DAMAGE FOR MODERATE INCOME
26 HOUSING UNITS;

27 [[(6)]](9) Criteria for determining designees;

28 [[(7)]](10) Minimum specifications for moderate income housing units;

29 [[(8)]](11) Criteria governing allocation of units if more than one designee applies to exercise
30 an option under subsection 13.407(c) of this subtitle;

1 ~~[[9]](12)~~ A co-ownership program for designees in accordance with subsection 13.407(j) of
2 this subtitle;

3 ~~[[10]](13)~~ Criteria for the sale or rental of a moderate income housing unit under section
4 13.407 of this subtitle;

5 ~~[[11]](14)~~ Criteria for administering the moderate income housing unit community
6 revitalization program; and

7 ~~[[12]](15)~~ Criteria for subsidy funds created by Continuing Care Retirement Communities
8 under subsection ~~[[13.402(1)]]~~ 13.406A of this subtitle.

9
10 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that***
11 ***this Act shall become effective 61 days after its enactment.***

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on November 16, 2019.

Diane Schwartz Jones
Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

Amendment 1 to Council Bill No. 50-2019

BY: The Chairperson at the request
of the County Executive

Legislative Day 13
Date: November 4, 2019

Amendment No. 1

(This amendment corrects the definition of disability income and adds the Office of Transportation as an agency that will review a request to provide Disability Income Housing Units as an optional method.)

1 On page 2, strike lines 26 through 30, inclusive and in their entirety and substitute:

2 “(F) DISABILITY INCOME MEANS AN ANNUAL HOUSEHOLD INCOME OF UP TO 20 PERCENT OF THE
3 MEDIAN INCOME IN HOWARD COUNTY COMPRISED, IN PART, FROM A CASH PAYMENT OF
4 SUPPLEMENTAL SECURITY INCOME (SSI) OR SOCIAL SECURITY DISABILITY INCOME (SSDI).

5 (G) DISABILITY INCOME HOUSING UNIT (DIHU) MEANS A DWELLING UNIT OFFERED FOR RENT TO A
6 HOUSEHOLD WITH AN ADULT PERSON RECEIVING DISABILITY INCOME.”

7

8 On page 5, in line 11, after “WITH” insert “THE ADMINISTRATOR OF THE OFFICE OF
9 TRANSPORTATION.”

10

11 On page 11, strike lines 18 and 19 inclusive and in their entirety and insert:

12 “ADULT PERSON RECEIVING DISABILITY INCOME.”

Sayers, Margery

From: Angelica Bailey <abailey@marylandbuilders.org>
Sent: Monday, November 4, 2019 3:37 PM
To: 'Opel Jones'; Bailey, Najee; Harris, Michael; Walsh, Elizabeth; Dvorak, Nicole; Rigby, Christiana; Facchine, Felix; Jung, Deb; Williams, China; Yungmann, David; Kittleman, Mary; CouncilMail; Sidh, Sameer
Subject: MBIA Letter of Concern re. CB50
Attachments: MBIA Letter of Concern re. CB50 - Disability Housing.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Howard County Council Members,

Please find MBIA's position re. CB 50-2019 attached. Thank you in advance for your consideration.

Best,
Angelica Bailey

Angelica Bailey, Esq.
Vice President of Government Affairs
abailey@marylandbuilders.org
Maryland Building Industry Association
11825 W. Market Place
Fulton, MD 20759
Dir: 301-776-6205
Cell: 202-815-4445
Ph: 301-776-MBIA

 MARYLAND
BUILDING
INDUSTRY
ASSOCIATION
Advocate | Educate | Network | Build



11825 West Market Place | Fulton, MD 20759 | 301-776-6242

November 4, 2019

Re: LETTER OF CONCERN re. CB50-2019

Dear Chairwoman Mercer Rigby and Members of the Howard County Council:

MBIA applauds the Administration's proposal in CB 50 2019 to add a much needed new tool for housing for the disabled living on a disability income. MBIA is pleased to join others in recognizing the need for housing for adults with incomes of no more than 20% of the median and coming through SSI or SSDI. However, we have several concerns which we hope the Council will consider when voting this evening.

First, we believe, however, that this option will enjoy only limited success if it mimics the revenue neutral approach established with the LIHU option to MIHU. The LIHU program is little noticed and less used and we are concerned that stems from two factors; multifamily developers unaware of the option until after financing, and its strict adherence to being revenue neutral.

We recommend that the Department of Housing and Community Development, together with disability advocates, contact multifamily developers at the very earliest stage of development (before the Presubmission Community Meeting is held) and acquaint them with the DIHU option. The disability advocates and the Department of Housing and Community Development are eager to see the DIHU program work so we anticipate their presentations to a prospective developer will be informative and enthusiastic. MBIA would be happy to serve as a resource and facilitate these connections.

Second, while we agree with most of the proposed changes to CB50-2019 and appreciate the Housing Coalition and Kelly Cimino's hard work, we have two points of minor difference:

1. We don't see what role the Planning and Community Resource Departments play in making the need determination for this option and we are concerned that a developer will be put off by the prospect of more meetings and red tape.
2. Payment of the fee is proposed to change from before Use and Occupancy to submission of the Building Permit, which adds unnecessary expense and doesn't solve a problem.

Ms. Cimino and her staff have made big improvements to the execution of the MIHU program, especially on the purchase side, over the past few years. MBIA has made a number of recommendations to Ms. Cimino and the Housing Coalition to further improve the MIHU program, but they are probably better dealt with as part of the Housing Master Plan and we look forward to working with the Plan consultant.

Thank you in advance for your consideration. If you have any questions about these comments and would like to discuss MBIA's position further, please do not hesitate to contact me at abailey@marylandbuilders.org or (202) 815-4445.

Best regards,

A handwritten signature in black ink, appearing to read "Angelica Bailey".

Angelica Bailey, Esq., Vice President of Government Affairs

Cc: Councilman Opel Jones
Councilmember Deb Jung
Councilman David Yungmann
Councilmember Elizabeth Walsh

County Executive Calvin Ball
Sameer Sidh, Chief of Staff to the County Executive

Howard County Housing Affordability Coalition

County Council Public Hearing

September 21, 2019

Council Bill 50-2019 Testimony

Good evening Council Chairwoman Rigby and Council members. My name is Paul Revelle and I am testifying on behalf of the Howard County Housing Affordability Coalition in support of Council Bill 50.

We applaud the Administration and particularly the Department of Housing and Community Development (DHCD) for proposing changes to the Moderate Income Housing Unit (MIHU) Program as it is the only County program dedicated to creation of housing affordable to moderate and low income households. We believe generally that several of the proposed amendments will help clarify owner/renter eligibilities and will increase DHCD capabilities to better ensure enforcement and accountability in the MIHU Program.

The Coalition particularly supports instituting a provision for development of units for persons with disabilities with incomes at or below 20% of the Howard County median. Providing an MIHU option for Disability Income Housing Unit (DIHU) would be the second step the Council has taken this year in response to the huge need for affordable housing for this economically vulnerable segment of our community's population. The initial step was Council approval of the Robinson Overlook Project PILOT (CR 97-2019) that supports inclusion in the project of nine housing units specifically designated for persons with disabilities. The new DIHU option will expand opportunities for people with disabilities to choose to live in homes that they can afford and that meet their needs and goals.

Equally important in CB 50 is the amendment clarifying that nonprofit entities are eligible to receive DHCD Fee-in-Lieu generated funding. This proposed language underscores the importance of DHCD having the authority to engage with other community entities, particularly the Howard County Housing Commission, for the creation and preservation of affordable housing units.

Thank you for the opportunity to offer these comments in support of Council Bill 50.

Respectfully,

Paul Revelle

Paul Revelle, Member
Housing Affordability Coalition

Cc: Housing Coalition Members

The Howard County Housing Coalition represents over 50 organizations and individuals that seek to:

Achieve community understanding, policymaking and regulatory decisions that will lead to an increase in and equitable access to Howard County housing affordability.

Create a community-wide recognition that Howard County's economic vitality is dependent upon access to jobs, resident mobility, quality education and housing affordability.

MIHU Fee in Lieu Revenue and Uses by Zip Code Through 09.30.19

Revenue		ZIP CODE																	Total	
		20723	20759	20777	20794	21029	21036	21042	21043	21044	21045	21046	21075	21076	21104	21163	21723	21784		21797
Calendar Year																				
2015	179,408.25							20,642.04					162,314.16		117,350.37				40,600.08	520,314.90
2016	198,463.32			42,066.54	146,566.35		12,792.60	25,243.65	9,257.04	28,081.62	17,884.80	226,170.27		161,242.65					37,079.91	904,848.75
2017	282,017.12	177,841.67		47,268.11	275,645.94		67,536.03	138,427.93		18,409.93				107,495.10				16,021.94	105,931.91	1,236,595.68
2018	591,368.40	487,477.13	17,482.85	39,952.68	961,912.55	34,454.64	7,649.40	459,966.68	44,215.00	31,652.24			160,381.07						383,814.04	3,220,326.68
YTD 9/30/2019	235,558.04	444,809.99	119,574.27	17,811.36	995,898.58		54,041.09	77,983.74	54,841.44			229,556.13	82,225.32		1,225.12	13,548.24	18,083.60		158,759.57	2,503,916.49
	1,486,815.13	1,110,128.79	137,057.12	147,098.69	2,380,023.42	34,454.64	142,019.12	722,264.04	108,313.48	78,143.79	17,884.80	778,421.63	82,225.32	386,088.12	1,225.12	13,548.24	34,105.54		726,185.51	8,286,002.50
Total Units	177	95	7	18	208	2	11	44	11	7	2	85	9	113	1	1	2		84	877
MIHUs not built																				877
Uses		ZIP CODE																	Total	
		20723	20759	20777	20794	21029	21036	21042	21043	21044	21045	21046	21075	21076	21104	21163	21723	21784	21797	
SDLP																				
Calendar Year																				
2016	19,881.00												673,640.00	140,205.00						833,726.00
2017	104,691.00							35,634.00			21,410.00		369,820.00	206,435.00						738,990.00
2018	25,000.00							63,884.00	34,853.00				94,414.00	241,994.00						460,145.00
YTD 9/30/2019	10,618.00			2,994.00				111,777.00					50,886.00	155,677.00		39,606.00				371,558.00
Fee in Lieu (FIL) Initiatives FY19																				
iHomes (Hicks RD)					92,500.00															92,500.00
Rebuilding (Green)								100,000.00												100,000.00
Living in Recovery		20,000.00																		20,000.00
Bridges		16,401.00						16,401.00		67,100.00	16,401.00	16,401.00	16,401.00							149,105.00
Financial Education																				37,500.00
	196,591.00	-	-	95,494.00	-	-	16,401.00	312,295.00	101,953.00	37,811.00	16,401.00	1,205,161.00	744,311.00	-	39,606.00	-	-	-	-	2,803,524.00
SDLP Units Created	12			1				14	1	1	1	61	42		2					134
MIHU FIL Units Created	4			3			3	1	15	3	3	3								35
Future Uses																				
FY20 Fee in Lieu Initiatives																			800,000.00	
FY20 SDLP																			1,000,000.00	
Autism Project																			500,000.00	
Oakland Place																			300,000.00	

CB50-2019 DIHU Testimony

October 21, 2019

Good Evening. My name is Cindy Parr and I am the Executive Director at The Arc of Howard County. I am here this evening to ask for your support of CB50-2019. While I registered to speak as an individual I have also received the appropriate approval from my Board to speak on behalf of The Arc of Howard County. Our agency supports more than 80 individuals residentially. Each month we receive requests from Howard County families seeking housing for their disabled loved ones. Here in Howard County, more than 21,000 people live with at least one disability and of that number more than 1,600 of them are living in poverty. I know firsthand that affordable, accessible housing is scarce and when found most times, must be subsidized.

This bill, as written, would provide an option. It would create DIHUs (Disability Income Housing Units) that comply with zoning regulations which are tied to market-rate single-family housing developments. Right now, a wait list of 464 individuals exists for Section 811, the Weinberg Apartments and other subsidy programs. All of these 464 individuals are seeking affordable housing opportunities in Howard County.

Currently, developers are offered the option of producing MIHUs (Moderate Income Housing Units) or paying a fee-in-lieu of producing MIHUs to the County's Department of Housing and Community Development.

This bill, if passed, will allow an alternative form of compliance and create opportunities for extremely low income individuals with disabilities an additional housing option. I am here this evening to strongly encourage you to pass this bill, so people with disabilities in Howard County can afford to stay and live in their community. Thank you.

Respectfully submitted,

Cindy Parr
Executive Director
The Arc of Howard County

CB 50-2019 – Disability Income Housing Units

October 21, 2019 – Public Hearing

TESTIMONY - SUPPORT

Hello. My name is Patricia Rynn Sylvester and I live at 9229 Winterfield Lane Columbia MD 21045. I am pleased to testify in favor of CB 50-2019, which revises and updates the County's Moderate Income Housing Unit (MIHU) program, including the addition of Disability Income Housing Units (DIHUs) as an optional method of compliance. DIHUs will serve people with disabilities receiving cash payments of SSI or SSDI with incomes at or below 20% of the Howard County median income.

I am currently retired with more than 20 years of affordable housing experience, including leading innovative initiatives to expand integrated affordable and accessible housing for people with disabilities with extremely low incomes. DIHUs is such an innovation and will add a new important tool for addressing a significant need locally. It could be a national model. My personal testimony tonight focuses on the housing needs of people with disabilities and support for DIHUs.

People with disabilities struggle every day to find and sustain housing that meets their needs and goals. There are insufficient homes integrated within Maryland and Howard County communities that are both affordable and accessible. Thus, people often are faced with living in situations that can hinder their efforts for employment, social enrichment, and community integration. DIHUs will be a new resource to help expand choice for people with disabilities, who are important and vibrant members of our Howard County family.

There is a need to increase the supply of homes in Howard County for People with Disabilities

- **22,089 persons with disabilities live in Howard County** (source – American Communities Survey 2012-2016)
 - 2,513 live at or below the poverty line (11%)
 - 2,869 live between 100-200% of the poverty line (13%)
 - 45% are 65 and older with 12% below the poverty line
 - 44% are 18-64 with 16% below the poverty line
 - *The poverty line was \$11,880 in 2016 and is \$12,490 for 2019*
- **9.8% of the Howard County student population reports a disability**, up from 8.8% in 2012
 - 16.77% report Autism (statewide percentage is 11.15%)
 - 1,575 are in grades 9-12 (27.6%) (source: MSDE as of October 2017)
- **Approximately 600 students with learning disabilities, autism, developmental delay, or intellectual disabilities are expected to transition out of Howard County high schools in the next five years.**
(source: The Howard County Autism Society's brochure about their Intentional neighborhood Initiative)

People with Disabilities need financial assistance to rent a unit in the county.

- **1,622 non-elderly adults in Howard County receive Supplemental Security Income (SSI) of \$771/month or \$9,252/year** (source - Social Security Administration, December 2016)
- **SSI income is about 12% of Howard County's 1-person area median income**
- A person who relies solely on SSI can afford a rent of \$231/month and would need to spend 155% of household income to rent a moderately priced one-bedroom unit. (source - Maryland statewide data from the Technical Assistance Collaborative report Priced Out in 2019)
- **The average market rent in Howard County is \$1,384, 180% of SSI income.**
- The 2014 Rental Housing Survey commissioned by Howard County Housing Commission (HCHC) notes:

- **Persons with disabilities in Howard County experience poverty at 5 times that of the overall county average.**
- 28% of persons with disabilities living in the Normandy submarket lived in poverty and 21% of those living in Columbia did as well.
- The 2018 Rental Housing Survey commissioned by HCHC states:
 - **Only 10% of the rental housing stock in the County serve people with incomes below 60% AMI; 3/4 serve those making between 60-100% AMI and 14% serve those making more than 100% AMI.**
 - **Median county-wide renter household income is \$79,370, 65% of the AMI (2018)**
 - **Renter incomes in 2018:**

▪ <\$15,000	2,524	7.8%
▪ \$15-25,000	1,870	5.8%
▪ \$25-50,000	5,151	15.9%
▪ \$50-100,000	10,567	32.7%
▪ >\$100,000	12,246	37.8%
- Rental subsidy programs such as the Housing Choice Voucher are over-subscribed and the waitlist is closed.
- **110 current Howard County residents with disabilities** are on the Maryland Department of Disabilities (MDOD) waitlist for its 3 housing programs:
 - 3 live in nursing facilities or other similar institutions
 - 42 live in group homes or other similar congregate settings
 - 41 are homeless or at risk of homelessness
 - 17 live with family or others and want to move to their own home
 - 95 are looking for one-bedroom units (86%)
 - 17 need physically accessible units (15%)
- Another 353 people on MDOD's waitlists want to live in Howard County and a total of 2,904 persons with disabilities are on the 3 waitlists, which are open.

CB 50 can continue recent progress in Howard County addressing the needs of People with Disabilities

- HCHC and Harford County successfully partnered to receive 35 new Mainstream vouchers from HUD. Approximately 17 are being used in Howard County.
- Robinson Overlook will provide 9 affordable units for people with disabilities on the MDOD waitlists.
- Ellicott Gardens Two and Artists Flats, two recently awarded Low Income Housing Tax Credit projects, will bring new units for people with disabilities on the MDOD waitlists:
 - 14 units at Ellicott Gardens Two at 30% Baltimore area median income.
 - 11 units at Artists Flats with project-based vouchers.

Please vote in favor of CB 50 , which is critically needed to continue Howard County's progress in helping people with disabilities find a place in the county they can be pleased and proud to call home.

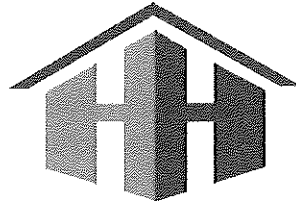
Sayers, Margery

From: Peter Engel <pengel@househoward.org>
Sent: Friday, October 18, 2019 12:57 PM
To: CouncilMail
Subject: Testimony in Support of CB 50
Attachments: CB 50 Testimony 2019-10-21.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Attached is testimony from the Howard County Howard Commission in support of CB 50. Thank you very much.

Peter Engel



HOUSE HOWARD
Howard County Housing Commission

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Testimony in Support of Council Bill 50

Thank you for the opportunity to provide written testimony in support of Council Bill 50. The Howard County Housing Commission recognizes the on-going need faced by thousands of County residents for housing that they can afford, and the benefits of a strong Moderate Income Housing Unit ordinance to assist with the housing shortfall.

CB 50 provides much-needed updates to the ordinance, bringing it in line with today's practices. It also adds the option of creating accessible units for people with disabilities, creating a new DIHU category. There are very few units in the County reserved for people with disabilities, many of whom receive Supplemental Social Security Income (SSI) at levels that are far below the minimum necessary to qualify for rental housing.

The MIHU ordinance is Howard County's only program that actively creates below-market rental and ownership units. There are no general County funds that support housing affordability and the small amount of federal CDBG and HOME dollars received each year is far from adequate to create more than a few units on its own. While inclusionary zoning practices such as MIHU do not always produce large quantities of housing, they are a key element of any good housing strategy. The law creates new affordable opportunities throughout the business cycle, accelerating when times are good. In addition, in cases where creating the housing itself is economically inefficient, the program produces funds that can be used to support other housing equity efforts. These "fee-in-lieu" payments are the only funds that the County has to support the creation or preservation of below-market apartments.

The County's Department of Housing and Community Development, which oversees the program, has noted for a number of years areas in which the law could be improved. The Housing Commission is pleased to see the Administration proposing these changes, which add to and strengthen the law, and hopes that the Council approves them.

In particular, there are two sections of the bill that should be noted. The first is the new Disability Income Housing Unit category. In 2020, SSI payment standard for an individual is \$783 per month, for a total of about \$9,400 annually. This is less than 12% of the County median income for a one-person household and clearly far too little to afford any housing in the County. At the same time, the only substantial program to assist very low income renters, such as individuals receiving SSI, is the federal Housing Choice Voucher program, which continues to have a waiting list that is years long.

The new DIHU category will not solve this problem alone, but it will contribute to the solution. In the housing realm, there are no single, one-step solutions. Rather, government must partner with the private sector, which provides the vast majority of housing, to assist people who for various reasons cannot keep pace with the prevailing market. The DIHU program does just that and will make a valuable tool for improving the housing status of County residents.

A second change to the ordinance will assist the Commission and others in creating more housing opportunities throughout the County for a broader segment of the market. This amendment allows fee-in-lieu funds to be provided to the Commission and local non-profits for a variety of housing affordability purposes. Regional local jurisdictions that support affordable opportunities typically provide general funds and other resources to the effort. Montgomery County has been spending over \$35 million annually; Baltimore City created a \$20 million fund; Arlington County, in Northern Virginia, has been spending between \$15 million and \$20 million; and Washington DC appropriates over \$100 million each year. As noted above, Howard County provides no general funds for support and the Department of Housing and Community Development is funded, both operationally and programmatically, through a small percentage of the transfer tax.

Allowing fee-in-lieu dollars to be used to support the efforts of the Commission and non-profits to create and preserve affordable housing in the County would be a step in the right direction. These badly needed funds could be paired with other government programs to create more units, leverage other public and private sector sources, and increase the supply of low and moderate income housing in Howard County.

The Commission supports the proposed changes and encourages the Council to approve them. Thank you again for the opportunity to provide this testimony.