

County Council of Howard County, Maryland

2021 Legislative Session

Legislative Day No. 7

Resolution No. 89-2021

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

A RESOLUTION setting the fee-in-lieu rate for moderate income housing.

Introduced and read first time May 3, 2021.

By order Michelle Harrod  
Michelle Harrod, Administrator

Read for a second time at a public hearing on May 17, 2021.

By order Michelle Harrod  
Michelle Harrod, Administrator

This Resolution was read the third time and was Adopted , Adopted with amendments , Failed , Withdrawn , by the County Council on May 26, 2021.

Certified By Michelle Harrod  
Michelle Harrod, Administrator

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           **WHEREAS**, Section 13.402C of the Howard County Code authorizes a fee-in-lieu as an  
2 alternative to the provision of moderate income housing units in certain zoning districts; and  
3

4           **WHEREAS**, Section 13.402C(e)(2) of the Howard County Code requires that the fee-in-  
5 lieu for moderate income housing be set yearly by Council Resolution based upon the percentage  
6 increase in the ENR construction cost index for the Baltimore Region as reported in ENR,  
7 Engineering News Record; and  
8

9           **WHEREAS**, in accordance with Section 13.402C(e)(2) of the Howard County Code, the  
10 fee-in-lieu for moderate income housing will increase for Fiscal Year 2022 as shown in the  
11 attached Rate Schedule.  
12

13           **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard County,  
14 Maryland this 26 day of May, 2021 that it adopts the rate schedule for the fee-in-  
15 lieu for moderate income housing as attached to this Resolution:  
16

17           **BE IT FURTHER RESOLVED** that the schedule of rates shall be effective on July 1,  
18 2021 and shall continue in effect until changed or repealed by subsequent resolution of the  
19 County Council.

**FEE-IN-LIEU FOR MODERATE INCOME HOUSING  
RATE SCHEDULE**

[[~~\$2.67~~]]\$2.83 per square foot of residential space for each unit in the development

**Sayers, Margery**

---

**From:** Diana Heffner <dheffne@gmail.com>  
**Sent:** Wednesday, June 9, 2021 11:33 AM  
**To:** CouncilMail  
**Subject:** Council Resolution CR89-2019

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

I'm curious to know why the County wants to practically donate county land to a big developer.

Diana Heffner

Sent from Mail for Windows 10



## **CR89–2021 Fee-in-Lieu Rate for Moderate Income Housing**

### **Written Testimony**

**May 25, 2021**

#### **Position: Opposed as filed**

My name is Dan Hajdo and I'm offering testimony on behalf of Howard County Indivisible in opposition to CB 89 unless amended.

Just this evening's selection of budget bills includes a number of requests for the county government to borrow money. Meanwhile, last years budget vote revealed that the county pays over \$250 per square foot to provide affordable housing. That's nearly one hundred times more than what the county charges for fee-in-lieu.

Howard County government has allowed Howard Hughes Corporation and other entities to take advantage of the MIHU for their profit, subsidized by public funds, to evade responsibilities for affordable housing.

We are aware that there is a relatively new, industry friendly line of argument that deregulation of land use will lead market forces to lower housing prices. Somehow, in the Trickle Down Housing theory, this also leads to increased affordable housing. There is, however, little or no evidence to support this theory. And even proponents admit that, without some government intervention, there is no incentive for private industry to supply affordable housing.

There is, however, decades-worth of research to support mandatory inclusion and realistic fee-in-lieu fees as ways to provide affordable housing. Moreover, requiring 15% (at least) affordable housing within market rate housing developments helps alleviate the de-facto segregation of our county.

As it exists, and as it is currently applied in Howard County, fee-in-lieu allows the industry to skirt this public benefit. We urge you to significantly revise this resolution to stop the developer-subsidy.

The county should:

- 1) Raise the MIHU fee rate in this resolution to the maximum allowed by law.
- 2) Resolve to abolish the artificial cap Howard County legislation placed on the MIHU fee.
- 3) Make some provision, in the budget, for “developers” to pay their fair share of affordable housing or, hold them accountable for on-site inclusionary housing.

\*\*\*



**HCCA**

**Howard County Citizens Association**  
*Since 1961... The Voice of the People of Howard County*

May 24, 2021

County Council – HCCA Positions on Resolutions 72,73,74,86,80 2021

Resolutions 72/73 – These fees have been stagnant for far too long and need to be reviewed for a rational increase. Adding a purely inflationary clause to increase automatically is warranted.

Resolution 74 – the ZRA petitioner fee should be increased to follow the County Code and have the Council set the appropriate cost to the County to be reimbursed by petitioners who stand to profit immensely from these measures. Individuals who petition for these changes also benefit very much, and should have to weigh investing in a change carefully, since the changes affect others.

Resolutions 86/89- The HCCA has argued for a long time to raise or eliminate the fee-in-lieu of providing MIHU's to get them more spread out, and/or get more County funds closer to the cost of the units. These fees are artificially capped by the building industry which is entirely inappropriate and not done by other jurisdictions. The cap has to be removed. While it is in place, the Council should be told the maximum that can be chosen to raise the fee in the legislative financial impact information.

The Howard County Citizens Association (HCCA) agrees with the testimony provided by The People's Voice (TPV) on these resolutions.

Stu Kohn

President

# The People's Voice, LLC

## Ethics Ballot™

3600 Saint Johns Lane, Suite D, Ellicott City, MD 21042

May 17, 2021

County Council Testimony

CR 86/89 – Building Excise Tax and MIHU fee-in-lieu increases – Should be amended to be increased to allowed cap. Also request to remove cap.

The Building Excise tax and fee-in-lieu of providing MIHU's is set annually. In the County Code these rates are capped at annual maximum increase allowances set by the Engineering News Record Baltimore Region Construction pricing index. This is a building industry journal, whose annual indices are not all that easy to find. The County financial analysis on this legislation should include the maximum amount you are allowed to consider.

We have been giving this same testimony for many years now. Asking to have the rate published with the legislation, asking to get closer to the maximums as they are set so low. Some years, I have been able to find this maximum, googling. Some years I have had to pay over \$100 to join ENR then cancel my subscription after getting the figures. This year, I was able to find the chart with some caching efforts online. The legislation proposes a 5% increase on both. The charts from ENR this past year since the last review was complete, shows increases of over 6 to 12% depending on which month cuts off for 2020 or 2021 in your analysis. There are recommendations you will be reviewing from task forces looking at housing and equity issues that touch on raising these fees, especially the MIHU fee-in-lieu. The first thing that needs to happen is to remove this artificial cap that ties your hands and disallows you to use them as planning tools. This cap is not used as a maximum in other jurisdictions but is referred to as something to consider. Time for HoCo to not have this industry driven maximum, and make the local decisions as this Council sees fit.

We recommend the maximum allowed percentage in both cases, as being limited artificially for so long should not just be beneficial in one direction. After all, we don't even charge fees that cover County costs for decades in our procedures, regarding other current legislation, but we have allowed maximums dictated from one industry inflation index.

Thank you.

Lisa Markovitz  
President