HOWARD COUNTY DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT
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Voice/Relay
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Date: January 16, 2024

To: Council Chair Jung and Members of the Council

From: Kelly Cimino, Director *K. Cimino*

Re: CB4-2024 – DHCD Response

Dear Council Chair Jung and Members of the County Council,

Thank you for the opportunity to provide information on the impacts of Council Bill 4-2024. The Moderate Income Housing Unit (MIHU) program has evolved over time to respond to changes in market conditions, increase affordability for residents at different income levels and improve the effectiveness of the program.

The proposed changes in CB4-2024 would have significant impacts on how the existing MIHU program is administered, as well as impacts on a multitude of housing affordability initiatives that the Department of Housing and Community Development administers each year. First, the proposed legislation would eliminate alternative compliance and fee-in-lieu (FIL) for the MIHU program. Additionally, this bill would alter how the MIHU program is administered through changes to priority periods and low-income housing unit alternatives, among other changes. This memo documents the impacts of several of the proposed changes to the MIHU program in greater detail.

Market-Based Alternatives

The proposed legislation would entirely remove Section 13.402A from the MIHU Code. This section was added in 2011 following the impacts of the housing market crash of 2008. At that time, market-rate sale prices fell significantly and were nearly the same as MIHU housing prices. In order to justify the recordation of a resale covenant, MIHU sale prices must be lower than market rate sale prices. To address this potential conflict during uncommon market situations, this language was added to Code to ensure that alternative options are available to developers to promote housing affordability. These alternatives include the purchase of substitute units, which may be offered to low-income purchasers. While this provision has only been used several times, when market conditions drive down sale prices, it is useful to expanding affordability.

MIHU Priority Periods

CB4-2024 also proposes to remove priority period time limits, which will affect the established operating processes and procedures of the MIHU program. The MIHU pricing and standards are set twice a year, on January 1 and July 1. When a developer is ready to sell designated MIHUs, the Department follows specific processes and procedures to price the affordable units and offer those units to applicants in the MIHU database. Currently, developers request pricing for MIHU homes about 120 days before their scheduled completion date.

Without priority periods, the Department would not be able to accurately determine the affordable sale prices and award the units to qualified purchasers. The semi-annual pricing changes will also impact when affordable rents and income levels are set and will make it more difficult to qualify applicants for available MIHU rental units.

Alternative Compliance

The proposed changes to Section 13.402 will also eliminate the Department's ability to offer low-income housing units as an alternative to moderate-income housing units. This provision has been used multiple times to create increased affordability for rental households earning up to 40% AMI and homeownership applicants earning up to 60% AMI. These deeper affordability levels are sorely needed in Howard County, as they provide housing options for many residents in the County's workforce such as childcare workers, hospital support staff, first responders, and school system staff.

Fee-In-Lieu

Most notably, this legislation would eliminate many types of alternative compliance for the MIHU program, including Section 13.402C that enables the Department to collect fee-in-lieu from developers in certain zoning districts. The fee-in-lieu provision was added to the regulations in 2013 to require developers of single family detached and age-restricted units to pay the fee-in-lieu (FIL) and contribute funding to address the shortage of affordable rental and homeownership units in the County. Prior to this Code change in 2013, there was no housing affordability requirement within single family detached zoning districts. The addition of MIHU requirements and fee-in-lieu for single family detached and age-restricted developments helps ensure that development in all zoning districts contributes to the creation of affordable housing.

In the decade since this policy was adopted, fee-in-lieu revenues have contributed to numerous housing affordability initiatives throughout the county. Eliminating this section will both significantly impact the Department's funding of affordable housing programs, as well as make housing construction in certain zoning districts economically infeasible. The scarcity of local and regional housing supply continues to drive up the value of land and the final built product for new home construction. The combination of zoning limits and the elimination of the fee-in-lieu and off-site compliance for small subdivisions (10 or fewer units), as contemplated in the removal of Section 13.402A, could make these development projects cost prohibitive.

Budgetary and Programmatic Impacts

In FY24, the Department's budget includes MIHU fee-in-lieu revenue of $6,675,000. These funds are designated for programs such as the Settlement Down Payment Loan Program (SDLP), rental assistance, foreclosure prevention and the creation and preservation of affordable housing units. For prospective low- and moderate-income homebuyers, making a down payment on a home purchase and covering the closing cost expenses is a huge barrier to purchasing their first home. The Department's ability to use MIHU FIL revenue to provide down payment and closing cost assistance removes this barrier and provides more opportunities for low- and moderate-income households to achieve homeownership. Over the last six years, approximately 400 Howard County families have gained access to homeownership through this vital program.

Once families become homeowners, the MIHU FIL funds can also provide foreclosure prevention funds if families face a hardship and fall behind on their mortgage payments. The Department is also able to provide grants to our nonprofit partners with MIHU FIL funds to increase the number and affordability of rental housing units for lower income households. In 2023, this included funding to the Community Action Council and Bridges to Housing Stability for eviction prevention, as well as funding to Rebuilding Together Howard County for emergency mobile home repairs for low-income and senior residents.

In recent years, this funding has also been used to support the County's Right to Purchase program, including the allocation of $1.5 million to the Howard County Housing Commission for the purchase of Beech's Farm. These programs directly serve county residents by promoting housing stability, providing emergency resources, and preserving and creating the number of affordable units throughout the county. Removing this revenue stream will significantly impact funding for the Department's programs and reduce the number of affordable units that can be acquired and preserved for low- and moderate-income households.

MIHU Program Summary

As they exist today, the MIHU program and the alternative compliance options can address the housing needs for residents of low- and moderate- income levels in Howard County. The disability income housing unit (DIHU) alternative can provide options to households earning less than 20% of the County's area median income, while the low- and moderate-income provisions can assist households with incomes of 40 – 60% AMI to rent an affordable home or those with incomes of 60 – 80% to buy an affordable home.

Through our shared efforts to grow housing affordability in the county, the MIHU program currently provides more than 800 rental units and nearly 500 homeownership units at affordable rents and sale prices to income-eligible families. The current MIHU code provisions ensure these units will remain affordable in perpetuity, expanding opportunity for more residents to gain access to safe, stable, and affordable housing. Thank you for your consideration of this memo.