CASE STUDY: INCLUSIONARY ZONING IN WASHINGTON D.C.

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INTRODUCTION

Inclusionary zoning (IZ) has grown in popularity in U.S. cities throughout the last several decades. According to a study conducted by the Urban Land Institute, inclusionary zoning policies allow cities to, "encourage developers to create below-market rental apartments or for-sale homes in connection with the local zoning approval of a proposed market rate development project" (Williams, Carlton, Juntunen, Picha, & Wilkerson, 2016). Supporters of IZ programs view the approach is a unique and innovative tool to incentivize the production of affordable housing units in the private market. Incentives vary from city to city, and can include options such as "direct subsidies, tax abatements, density bonuses, and reduced parking requirements" (Williams et al., 2016). As a policy tool, IZ is politically attractive, since incentives are often framed as regulatory concessions by government, rather than direct monetary transfers from taxpayers to private developers.

PROGRAM OVERVIEW

Washington, D.C.'s IZ program, which began in August 2009, has four goals: (1) Create mixed income neighborhoods, (2) Produce affordable housing for a diverse labor force, (3) Seek equitable growth of new residents, and (4) Increase homeownership opportunities for 50 percent MFI and 80 percent MFI households (D.C. Department of Housing and Community Development, 2018). IZ is one aspect of the D.C. government's attempt to reign in the production of high-priced housing and respond to political pressure to prevent displacement of long-time residents.

The main mechanism through which Washington, D.C.'s IZ program functions is by providing a *density bonus* to real estate developers in exchange for their agreement to set aside a percentage of square footage in a residential development for affordable housing units. These units are rented or sold at below-market rate for the duration of their existence.

Program Eligibility

Program eligibility requirements are calculated based on the Median Family Income (MFI) for a family of four in the Washington, DC Fair Market Rent Area (FMR). The FY 2018 FMR Area Median Family Income is $117,200 (Office of Economic Affairs, U.S. Department of Housing and Urban Development, 2019). As of January 2018, the IZ program targets rental units to households making up to 60% of the MFI ($70,320) and for-sale condos to households making up to 80% of MFI ($93,760). Minimum income thresholds are calculated based on the number of bedrooms in a unit, while maximum income requirements are tied to household size. For example, to qualify for a three-bedroom IZ apartment, a family of four would need a combined family income between $54,950 and $66,200.

Historical Context

Inclusionary zoning strategies were developed in part as a tool for desegregation, to counteract the effects of racially-motivated exclusionary zoning policies. In the U.S., neighborhood segregation was legally sanctioned until 1948, when the Supreme Court outlawed race-specific covenants in *Shelley v. Kraemer* (1948). After *Shelley v. Kraemer*, communities maintained de facto racial segregation through exclusionary zoning practices, which included strategies such as zoning against multi-family homes and requirements for minimum lot sizes (Schneider, 2018). These strategies suppressed the supply of available residential housing and drove up property prices.

To understand the need for inclusionary zoning policies and determine appropriate indicators for successful implementation, it is critical to acknowledge how zoning practices were used in the recent past to perpetuate racial segregation. Exclusionary zoning maintained the effects of racial covenants after they were outlawed, and prevented construction of affordable housing in cities throughout the U.S., including Washington, D.C. These policies prevented lower-income, disproportionately Black and Brown people from moving into wealthier, typically whiter neighborhoods.

In Washington, D.C. wealthy white families clustered in the Upper Northwest Quadrant of the city. Even today, these neighborhoods are the least diverse and wealthiest in the city. Ward 3, which includes Chevy Chase, Friendship Heights, Palisades, Georgetown and Cleveland Park has the highest average MFI in Washington, D.C. at $190,380, and only 6.8% of the population is Black (80.1% White), according to 2017 American Community Survey Census data. North Capitol Street and the Anacostia River divide the White section of the city from Black Washington, D.C. Ward 8, which includes neighborhoods such as Barry Farm, Sheridan, Congress Heights, Douglass and Shipley Terrace, has the lowest average MFI in Washington, D.C. at $27,979, and 90.8% of the population is Black (5.6% White), according to 2017 American Community Survey Census data. Put another way, the average MFI of Ward 3 is seven times the average MFI of Ward 8.

Demographic Comparison
Highest vs. Lowest Income Washington, D.C. Wards

	Ward 2	**Ward 3**	**Ward 7**	**Ward 8**
Population by Race (%) Black	9.1%	6.8%	93.1%	90.8%
Neighborhood clusters	4, 5, 6, 7, 8	10, 11, 12, 13,	29, 30, 31, 32,	36, 37, 38,

		14, 15	33, 34, 35	39
Families				
Average family size	2.55	2.87	3.53	3.63
Average median family income**	$161,197	$190,380	$44,300	$27,979
60% of Avg. MFI (IZ rent baseline)	*$96,718*	*$114,228*	*$26,580*	*$16,787*
80% of Avg. MFI (IZ own baseline)	*$128,958*	*$152,304*	*$35,504*	*$22,383*
Source: D.C. Office of Planning State Data Center (n.d.). ***Source: DC KIDS COUNT data set, Ward Avg MFI calculated by averaging the Average MFI for neighborhoods in each ward. Source for determining Ward/cluster equivalency: http://www.neighborhoodinfodc.org/pdfs/Ward_Cluster.pdf*				

While the stated intent of Washington, D.C.'s IZ program is to ensure that new developments include affordable units (D.C. Department of Housing and Community Development. (n.d.), 2019) the definition of "affordability" used by the city fails to consider the injurious impact of policies that promoted segregation. Racially-restrictive covenants and exclusionary zoning excluded low-income, Black families from benefiting from Washington, D.C.'s economic growth over several generations, resulting in poverty and limited opportunity to concentrate in several neighborhoods. For the IZ program to truly be affordable to residents of neighborhoods that have suffered from consequences of exclusionary zoning policies, IZ would need to address the current economic hardships experienced by these families by tailoring affordability thresholds to their current economic situations. This paper explores the thresholds that would be affordable to residents in Washington, D.C.'s lowest income neighborhoods, which also have the highest percentage of Black residents.

ELIGIBILITY BENCHMARK ISSUES

Although Washington, D.C. geographically lies within the FMR Area, differences in the demographic makeup and income of high-earning surrounding cities make the FMR Median Family Income an inappropriate baseline for the IZ program. The cities factored into the FMR Area MFI calculation include some of the wealthiest cities in the United States. For example, the Median Family Income for the Washington, D.C. HUD FMR Area includes Bethesda, MD, which has a MFI of $232,466 – more than eight times the average MFI for Ward 8 in Washington, D.C. ($27, 979).

Median Family Income of Cities in the Washington-Arlington-Alexandria, DC-VA-MD HUD Metro FMR Area		
Principal Cities	**Median Family Income** (income and benefits in 2017 inflation-adjusted dollars)	**Mean Family Income** (income and benefits in 2017 inflation-adjusted dollars)
Washington, DC	$106,528	$155,436
Bethesda, MD	$232,466	$299,504
Frederick City, MD	$94,921	$105,237
Gaithersburg City, MD	$92,656	$109,905
Rockville city, MD	$118,742	$140,209
Silver Spring, MD	$83,140	$113,269
Alexandria city, VA	$118,757	$146,244
Arlington, VA	$154,926	$194,685
Source: American FactFinder (Accessed 3.18.2018)		

The use of the FMR Area MFI is a major flaw of the design of the IZ program. By targeting rental units to families making 60% of FMR Area MFI and for-sale units to households making 80% of the FMR Area MFI, the city is effectively prioritizing a specific subset of low-income residents.

According to a study by The Urban Institute titled, *The Color of Wealth in the Nation's Capital*, researchers determined that the MFI for Black families in the Washington, D.C. Metropolitan Statistical Area is $72,000, the MFI for Hispanic/Latinx families is $80,000, and the MFI for White families is $110,000 (Kijakazi et al., 2016). While 60% of the White MFI for the Washington, D.C. FMR area is close to the program's benchmark ($66,000), the program is less accessible for Black and Latinx/Hispanic families. For Black family of four in the Washington, D.C. FMR Area to qualify to rent a three-bedroom IZ apartment, that family would need a combined family income between 76% and 92% of the adjusted Black MFI (between $54,950 and

$66,200). A Hispanic family would need to make between 69% and 83% of the adjusted MFI. By basing qualifications on the DC FMR Area MFI, lower income minority residents are less likely to have access the program, since the bar is higher for for these residents.

One potential strength of the current program design related to eligibility requirements is that income minimum requirements do not apply to applicants who receive rental assistance through the Housing Choice Voucher program (Section 8) or other subsidies (Deputy Mayor for Planning and Economic Development, 2017). This has the potential to benefit extremely low income residents (usually below ~30% MFI) who also qualify for additional subsidies, particularly families in the lowest income areas of the city. By allowing "double dipping" the program has the potential to serve a wider range of D.C.'s lowest-income population, even though units are set-aside at 60% of MFI. Unfortunately, the 2017 IZ Annual Report provides data on subsidies for purchased units, but the percentage of renters in IZ units who received other forms of rental assistance is not currently known.

By basing the program eligibility on statistics that incorporate the incomes of wealthier, whiter communities within and outside of the city, the current program eligibility formula erases the economic reality of Black Washingtonians, many of whom have lived in the city for several generations and have been pushed to low-income neighborhoods in Wards 6, 7 and 8. Since eligibility is not based on the income distribution of the population in Washington, D.C., it could be argued that even without considering the racial differences within the city, the program is not adequately tailored to serve the intended population. It is imperative to consider race when assessing the accessibility of the Washington, D.C. IZ program because of the legacy of exclusionary zoning practices that imposed the barriers Black citizens in Washington, D.C. still struggle with today.

DHCD maintains a database of all IZ projects in the planning stages, under construction, completed with a lottery pending, completed with a lottery held, or a subsequent lottery pending. As real estate development continues in Washington, D.C., rents are rising in historically disadvantaged parts of the city, including in Wards 7 and 8. As of November 2017, six residential projects set to produce 14 units were in the pipeline in Ward 7, and another six projects with 19 total units in Ward 8, where the average MFI is $27,979. In the context of rapid development, it is likely that many long-time residents and families will be displaced as the place they call home becomes unaffordable. Inclusionary zoning can only prevent displacement of these residents if it is targeted to their economic situation.

CONCLUSION

Affordability requirements for D.C.'s IZ program are calculated based on a flawed statistic, the Washington, D.C. FMR Area Median Family Income. Although administrators have an interest in maintaining consistency with federal housing programs whenever possible, the needs of Washington, D.C.'s most vulnerable citizens should come first. The city's failure to truly consider the severity of inequality and the economic reality of the city's lowest income residents undermines the stated objectives of the program itself. If the program truly intends to address the downstream effects of racially-restrictive covenants and exclusionary zoning practices, the relationship between race and socioeconomic status should be closely examined and factored into program design.

That being said, if the city were to commit to implementing an IZ program to meet the needs of the District's most marginalized residents, it is unlikely that the cost of providing that service could realistically be borne by private developers. For IZ programs to work, there must be a balance between the city's interest in providing affordable housing, and cost efficiency for the developer. It is likely that by increasing affordability of units and decreasing prices to a threshold which would be affordable to residents of neighborhoods with a low average MFI (i.e. residents in Wards 7 and 8), private developers would not have sufficient incentive to participate in the program, and could simply opt out.

Instead of relying on the private market to produce affordable housing, Washington, D.C.'s government should commit to producing affordable housing and actively undoing the remnants of exclusionary zoning practices that still exist today. The sheer quantity of affordable housing units needed to meet citizen's needs far exceeds the scale of the IZ program, as currently constituted. Programs such as the National Housing Trust Fund and the DC Housing Production Trust Fund should be strengthened and fully funded.

As long as the supply of affordable housing is suppressed as a result of unnecessarily restrictive zoning practices which limit density and prevent development of affordable units, the cost to rent or own property in the city will continue to increase, causing lower-income residents to be pushed out of the city. It is the responsibility of the city to confront its history and dedicate resources to remedying the its legacy of racist policies that continue to put many Black Washingtonians, especially those who have lived in the city for generations, at a serious disadvantage. It is critical that as a society, we take every step possible to undo the damage done through the discriminatory policies of our past, and ensure that new and innovative policies do not worsen the divide, and actively work to improve conditions for those affected.

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