



**WASHINGTON LAWYERS' COMMITTEE**  
**FOR CIVIL RIGHTS AND URBAN AFFAIRS**

**TESTIMONY TO THE COMMITTEE ON ECONOMIC DEVELOPMENT**  
**PUBLIC HEARING REGARDING BILLS 20-594 AND 20-604**  
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My name is Megan Whyte de Vasquez and I am the Director of the Fair Housing Project at the Washington Lawyers' Committee for Civil Rights and Urban Affairs ("WLC"). I am also a homeowner in Ward 6.

The WLC and the law firm of Hogan Lovells are about to release a report that outlines what we believe are the most effective tools for creating affordable housing in each of the jurisdictions in the DC metro area, including the District. It lays out specifics for using each tool to its fullest practical extent, including enhanced affordable housing obligations when transferring public land, inclusionary zoning, and Housing Production Trust Funds.

Certain provisions in two of the bills under consideration today run directly counter to the recommendations we set forth in our report. I appreciate the opportunity to offer testimony about changes to those bills to ensure that they meaningfully contribute to solving the District's affordable housing crisis.

**BILL 20-604: AFFORDABLE HOMEOWNERSHIP PRESERVATION AND**  
**EQUITY ACCUMULATION AMENDMENT ACT OF 2013**

This bill implicates two key recommendations in our report, but unfortunately it runs counter to them. As written, it will not help to solve our affordable housing crisis. The District has an increasing shortage of affordable housing, and many neighborhoods that were affordable 5 or 10 years ago no longer are. The Housing Production Trust Fund should be used to create units with long-term affordability, especially in DC's gentrifying neighborhoods. The premise of this bill is that a purchaser will be able to take an affordable unit that was created with public funds out of the affordable housing stock in only 5 years. While there may be some neighborhoods that might need a bigger incentive to entice people to purchase affordable units, they should be the target of a special exception based on a detailed analysis, not the rule based on a broad formula that includes already booming neighborhoods.

The definition of distressed neighborhoods is problematic and too simplistic. According to the U.S. Census Bureau, the District's poverty rate is 18% overall, and we know that generally the census tracts with the most diversity of incomes are in transition because of gentrification. Lowering the threshold from 30% to 20% poverty rate, with complete discretion in the Mayor, enables a wide range of neighborhoods to qualify as "distressed" despite soaring home prices. The District should be finding ways to ensure long-term affordability in units created with public funds in gentrifying neighborhoods, not changing the definition of "distressed" to encompass neighborhoods that need no help to entice buyers.



Second, as our report recommends, the District should be increasing the periods of affordability for affordable units, not reducing them. The District must not simply facilitate the creation of affordable housing, it must also preserve the affordable housing that it helps to create. As the experience in Montgomery County showed, it is crucial to ensure that developments don't build affordable units only to lose them shortly after opening. After losing much of the affordable housing stock its MPDU program created, Montgomery County changed that program to raise its control periods to 30 years for sale housing and 99 years for rental housing. The District's control periods of 15/10 years for sales housing are already too short, and lowering the period to 5 years in many of its neighborhoods is the wrong way to go.

The Housing Production Trust Fund's purpose is to create affordable housing, and that is a public investment that the District should be seeking to preserve.

**BILL 20-594: DISPOSITION OF DISTRICT LAND FOR AFFORDABLE HOUSING AMENDMENT ACT OF 2013**

All of the experts consulted during the preparation of our report identified the need to harness the existing inventory of public land to serve affordable housing goals, including efforts to impose enhanced affordable housing obligations on those who purchase public land. However, when using the disposition of public land to advance affordable housing, it is important to put in place effective reporting and monitoring mechanisms for transparency and accountability. If a private developer fails to deliver its end of the bargain (may it be creating more affordable units or jobs, for example), it should reimburse the District in an amount at least equivalent to the value of the benefits it received.

Certain provisions of the bill should be changed to ensure that public lands are used at their full value and that the District receives the appropriate return. Keeping parties accountable will result in more affordable housing and less misused public lands and funds.

**(a-3)(1)(C)(i) – Ensuring Affordability**

In addition to rent and utilities, this provision should also include any mandatory amenity or other fees. As mixed-income buildings with some affordable units have been opening in the District, many of these buildings have attempted to impose "mandatory" amenity and other fees on tenants in the affordable units. While some of these fees might violate the terms of the LIHTC or subsidy programs applicable to the affordable units regardless, they also act as a barrier to tenants who qualify for these affordable units. Clarifying that mandatory amenity and other fees are to be treated like rent and utilities will ensure that people eligible for the affordable units are not prevented from renting them due to the imposition of additional mandatory fees.



(a-3)(3) – Ensuring the District Receives Appropriate Value for Public Land

This provision needs to contain reporting and accountability provisions to provide transparency and ensure that the District receives appropriate value for its land.

First, the District needs to ensure that any appraisal of the land is done accurately. Developers and others who want to close a deal for public land have an incentive to obtain an appraisal that undervalues the land. The bill should include reporting and accountability measures to ensure that appraisals of District land are done accurately, so the District and the public can see that it receives appropriate value for public land.

Second, the bill provides that the Mayor has discretion to transfer public land for less than its appraised value, but it contains no reporting or accountability provisions to ensure that the benefits promised to warrant the below-market transfer are realized. The bill should require reporting of the value developers receive for any below-market transfers, the affordable housing units and other benefits developers promise for the transfer, and the amount of affordable housing units or other benefits actually provided by the developer. The bill should further require any developer that does not provide the affordable units or other promised benefits in full to reimburse the District in an amount at least equal to the value of the benefits not ultimately provided. Those funds should then be placed into the Housing Production Trust Fund to ensure they remain available to create or preserve affordable housing in the District.

(a-3)(4) – Tightening the Waiver Provision

This provision of the bill provides a broad exception for the Mayor to waive the affordability requirements when transferring District land without any reporting requirements. This provision should be revised to make clear that such a waiver should be an extraordinary remedy and require a strong showing that no development can be built without a waiver of some of the affordable unit requirements. Further, it should make clear that the Mayor should not transfer land at less than its appraised value if the affordable housing requirements are waived entirely; if the District is not receiving any affordable housing benefits, then it should not be gifting developers with below-market public land. Finally, the bill should include a provision requiring public reporting of the Chief Financial Officer's conclusions regarding why the appraised value does not support the affordable housing requirements and why any reduced affordable housing requirement is the maximum for that site.

Thank you for the opportunity to provide testimony on these bills.