

DC GRASSROOTS PLANNING COALITION OPEN LETTER TO MAYOR MURIEL BOWSER AND DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT INTERIM DIRECTOR DREW HUBBARD

On September 30, the DC Office of the Inspector General (OIG) delivered a damning report, finding that the DC Department of Housing and Community Development (DHCD), over the period between October 2016 and June 2020, violated the law that prescribes how Housing Production Trust Fund (HPTF) revenues are to be disbursed.¹ The IG found that DHCD brazenly ignored the law that “at least 50% of the funds disbursed from the Fund during a fiscal year *shall* be for the purposes of assisting in the provision of housing opportunities for extremely low-income households, including maximizing the possibility of home ownership.”² The law compelled DHCD to spend \$142.8 million to produce and preserve affordable housing for extremely low-income (ELI) households during the audit period.³ But DHCD spent only \$61.1 million on ELI households or less than half of what the law mandates.⁴

The law governing the HPTF uses medium family income (MFI) calculated by the U.S. Department of Housing and Community Development (HUD) that defines “extremely low income” (ELI) households as those whose annual incomes are equal to 30% or less of the MFI.⁵ For 2021, the Washington Metropolitan Area MFI for families of 4 at 30% MFI is \$38,700 annually.⁶ More significant, the median income of the District’s African American families is only \$46,000 annually compared to the \$143,000 annually for the city’s white families.⁷ With half of all African American families earning less than \$46,000 annually, DHCD’s failure to fund housing for ELI families constitutes a massive racial equity failure in our city’s housing programs! This fundamental racial equity failure widens disparities in housing and other metrics of economic development between the District’s poor/working class and its incoming increasingly wealthy class.

Mayor Bowser touts allocating \$100 million annually to the HPTF and the goal of 12,000 affordable housing units by 2025 as evidence of her commitment to affordable

¹ DC Code §42-2802 (2021). OIG Final Report No. 20-1-23DB, DC Office of Inspector General, September, 2021.

² DC Code § 42-2802 (b-1) (2) (2021). The law allows the mayor to request a waiver of the 50% ELI funding requirement from DC Council when there are insufficient numbers of viable proposals for ELI housing. DC Council decides whether to approve or disapprove the waiver request. Id. According to the OIG, the Mayor failed to initiate any waiver requests. OIG Final Report No. 20-1-23DB at 5-6.

³ OIG Final Report No. 20-1-23DB at 5.

⁴ Id.

⁵ DC Code §42-2801 (1)(A)(i), (3) (2021).

⁶ FY 2021 Income Limits Documentation System-Summary for Washington-Arlington, Alexandria, DC-VA-MD Metro FMR Area HUD, accessed 10/11/21.

⁷ DC Health Matters Collaborative, 2021 Demographics, Summary Data for City: District of Columbia, <https://www.dchealthmatters.org/demographicdata?id=130951§ionId=936>.

housing. But she and her agency are burying that commitment by denying housing affordable to those most in need.

Accordingly, DCGPC calls on DC Council to remedy DHCD's exclusion of ELI families from vital housing funding the law mandates for them. First, DHCD and Interim Director Hubbard must provide restitution to DC's ELI families who were illegally denied housing construction and preservation funding. Restitution means that Council must require DHCD to expend an additional amount of HPTF funding over the required 50% for ELI households in the coming two fiscal years in order to make up for the funding illegally diverted from ELI families. Additionally, Council must immediately hold a public hearing to hear from public witnesses, including those directly impacted by DHCD's misuse of funding, and enact accountability policies that will prevent DHCD from ignoring requirements for selecting housing developers, improperly implementing funding, and failing to ensure that housing income restrictions are maintained.

Furthermore, DCGPC calls on the Office of the Attorney General to immediately investigate the unlawful diversion of funds away from HPTF's express statutory purpose, including whether projects are being approved for purposes of political favor or benefit. Finally, DCGPC calls on the DC government to immediately develop a workable racial equity tool that DHCD be required to use from the outset to identify development projects to fund, maintain oversight to ensure effective use of use of HPTF funding during construction, and impose stricter accountability metrics to ensure that housing constructed for certain income groups is occupied throughout by households within the designated groups.

It's most concerning that the administration responds to the massive racial equity failure exposed by the OIG with claims that HPTF's statutory and regulatory mandates are optional.⁸ Responding to the OIG's recommendations to improve application of HPTF funding for ELI households, DHCD stated "that the emphasis on 0%-30% MFI housing expenditures contradicts long-established best practices in the affordable housing field that developing mixed-income housing leads to strong communities and long-term financial sustainability for affordable housing project."⁹ Feigning concern for the very families the agency shuts out of housing, DHCD states "the agency seeks to avoid incentivizing the concentration of large numbers of extremely and very low-income housing in a way that repeats the housing policy mistakes of the past."¹⁰ According to DHCD, meeting HPTF statutory mandates for 0% - 30% MFI households "would run the risk of advancing residential segregation patterns; concentrating poverty and attendant

⁸ Disturbingly, the Chair of the Committee on Housing and Executive Administration appears willing to ignore the clear mandate of the HPTF law and treat the 50% ELI requirement "as more of guidance than firm requirement." Ally Schweitzer, *After Scathing Audit, Tougher Oversight Could Be Coming for D.C.'s Affordable Housing Trust Fund*, <https://dcist.com/story/21/10/12/more-oversight-possible-after-scathing-affordable-housing-audit/>, Oct. 12, 2021.

⁹ OIG Final Report No. 20-1-23DB, Appendix E. DHCD Response to Draft Report at 26.

¹⁰ *Id.*

consequences; and setting up projects that lack ongoing subsidies for failure.”¹¹ To the contrary, DHCD’s directing funding to higher income households the law reserves for the lowest income households increases homelessness and massive government driven displacement of Black and Brown families from our city. Significantly, DHCD has the power to fund projects located where it desires; therefore, its segregation avoidance excuse for refusing to fund housing for ELI families throughout the city is spurious.¹²

Finally, the OIG report highlighted DHCD’s failure to follow agency determination requirements and the agency’s selection of lower scored proposals for housing construction over higher scored proposals even though the lower scored proposals accepted produced *fewer* ELI housing units. DHCD responded that its Director has discretion to apply self-described “more holistic goals” over agency determination requirements.¹³

In sum, it’s clear that DHCD is out of control. That’s why DCGPC demands immediate action to guide DHCD’s return to compliance with HPTF law.

Dated: November 12, 2021

DC Grassroots Planning Coalition

¹¹ Id.

¹² If DHCD and the administration funded Wardman Hotel for housing affordable for the lowest income households, that would produce ample ELI housing and help reduce segregation in Ward 3!

¹³ OIG Final Report No. 20-1-23DB, Appendix E at 25.