TESTIMONY OF
DC APPLESEED CENTER FOR LAW AND JUSTICE
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BEFORE THE
COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE

Performance Oversight Hearing on the
Department of Housing and Community Development & Housing Production Trust Fund
John A. Wilson Building Room 412

Good afternoon Chairperson Bonds and members of the Committee. Thank you for this opportunity to testify on the performance of the Department of Housing and Community Development and Housing Production Trust Fund. I am Danielle Burs, Counsel for DC Appleseed. DC Appleseed is a non-profit research and advocacy organization dedicated to making the District a better place to live and work for all. We are currently celebrating our 25th year of having the privilege of doing that work.

DC Appleseed and our pro bono partners have broadened our focus on affordable housing from the redevelopment of Southwest and the Anacostia Waterfront Initiative to production, preservation, and conditions issues throughout the District. With our partners at the Coalition for Nonprofit Housing and Economic Development, we pushed for issuance of and provided extensive comments on District Opportunity to Purchase Act regulations and drafted an updated housing preservation report. With our partners at Coalition for Smarter Growth and our pro bono counsel at Steptoe and Johnson and the Law Offices of Hank Brothers, we have provided amicus support in Cummins v. District of Columbia Zoning Commission which makes the case for using planned unit developments (PUDs) as a tool to create more long-term-affordable units in developing neighborhoods and to ensure a housing first approach in New Communities projects like Park Morton.

Working with DHCD and the Housing Production Trust Fund

Working with DHCD to get to the issuance of final regulations for the Housing Production Trust Fund was a long process, but one in which DHCD – particularly Senior Advisor Danilo Pelletiere – was accessible and forthcoming. We also appreciated the provision of several events to explain how DOPA would operate, headed by Affordable Housing Preservation Officer Ana Van Balen. Materials regarding DOPA and other updates were made available through DHCD’s online newsletter and on DHCD’s website as well.

There have, however, been some obstacles over the past year. For example, the Affordable Housing Preservation Fund is available as-needed instead of only through semi-annual RFP’s. This is a necessary feature for preservation funding, since buildings can come up for sale any time, and buyers (including tenants through TOPA) must move quickly to avoid losing a property. However, the public-private Preservation Fund is not an ideal tool for the rehabilitation of buildings that will serve households with very
low incomes. Such projects require very low interest rates and some flexibility in terms, which is not what the current structure of the Preservation Fund reflects.

We have also heard from developers that the process for awarding Housing Production Trust Fund dollars is too opaque. As we requested in our comments on the DOPA regulations, we think that sharing scoring outcomes would be beneficial for increasing confidence in the process and for improving future applications. It is also our understanding that non-profit and for-profit housing developers have more capacity for building affordable units. In the midst of a crisis-level lack of affordable housing, it is imperative to increase funding for new development and preservation so long as there is capacity to put that funding to good, efficient use. The District allocates more money than our neighbor jurisdictions for affordable housing development, but we also have a greater need.

**Housing Preservation**

We were very glad to see Director Donaldson’s commitment to giving the District Opportunity to Purchase Act legs by drafting long-needed regulations and shepherding them through to final form. Despite the long delay during past Administrations and Councils, strong regulations were put completed, with two rounds of public comments, in a very reasonable amount of time. This past year also saw the onboarding of a Housing Preservation Officer and movement on the District’s first DOPA deal. That movement illuminated the need for some legislative changes, which were introduced on behalf of the Executive, and which we encourage this Council to pass as a means of strengthening this important tool.

DC Appleseed has also focused on the preservation and production of affordable units through the use of Planned Unit Developments (PUDs). As a New Communities Initiative site, the Bruce Monroe/Park Morton project speaks to that program more broadly and to possible approaches for the staggering amount of investment that properties across the DC Housing Authority portfolio will need in the near future. PUDs are approved or disapproved through a public process that is led by District priorities (affordable housing, in many cases) while also taking site considerations into account. It’s efficient and transparent, and it was predictable until a spate of lawsuits challenging them on weak grounds but “winning” by slowing down planned development enough to make the costs unbearable and to dissuade other potential District partners from participating in PUDs. PUD negotiations work when developers are willing to offer more public goods than required, in exchange for faster, more predictable routes to commonly requested concessions. The Coalition for Smarter Growth, Enterprise Community Partners, and the Park Morton Residents Council joined us on an amicus brief which addresses these issues in more detail. The Law Offices of Hank Brothers and Steptoe and Johnson have provided pro bono support, writing the brief and participating in oral arguments. We hope that the Court will find in a manner that upholds the use of PUDs for expanding the District’s affordable housing supply.

DC Appleseed is one of many organizations working on an update to the D.C. Preservation Network Preservation Strategy Group’s second edition of the report *Maintaining Economic Diversity and Affordability: A Strategy for Preserving Affordable Rental Housing in the District of Columbia*. The new edition reviews the significant strides the District has made in preserving affordable housing over the past four years, including implementation of several of the original report’s recommendations. It also highlights ongoing and new challenges, along with proposed solutions. We very much look forward to its release next month (March 2019). While it is unfortunately not available in time for this hearing, we will be sure that every member of this committee is provided with a copy and will be happy to speak further at your convenience.
Housing Production

DC Appleseed advocated fiercely for the original Anacostia Waterfront Zone affordable housing requirements, then fought to ensure that the strictest possible affordable housing requirements remained when the District renegotiated with developers after the 2008 financial crisis. We continue our monitoring role in regard to the currently governing legislation, the National Capitol Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008. That law requires that 30% of residential units developed in the Anacostia Waterfront Development Zone be affordable to households with incomes at 30% to 60% of Area Median Income (AMI). Those requirements are similar to the requirements of a more recent law lauded by affordable housing advocates – the Disposition of District Land for Affordable Housing Amendment Act of 2014. (That law is applicable District-wide and requires that 20% to 30% of residential units developed on land disposed of by the District government be affordable to households with incomes at 30% to 50% of AMI if within a certain distance from public transit.

The Wharf’s Phase I includes the Channel and Incanto buildings are one project, and the required affordable units are split between them. Phase I is essentially complete, and on track to deliver the agreed-upon number of units affordable to low-income, moderate-income, and workforce income households. Phase II will include more affordable housing via the PUD process, adding around 120 more affordable units.

Comprehensive Strategy

Since the last Comprehensive Housing Strategy Task Force was created in 2012, Mayor Bowser and this Council have taken steps to support redevelopment in the District for residents of all income levels, through development at the Wharf and Walter Reed, implementing new tools such as DOPA and the Affordable Housing Preservation Fund, and investing at a consistent level in the Housing Production Trust Fund. However, these initiatives alone can’t solve the housing crisis.

This Administration and this Council have shown themselves eager to solve the affordable housing crisis, but there has been no public accounting of progress made since the last Comprehensive Housing Strategy or concerted process to involve experts outside government in creating a new strategy. The Comprehensive Housing Strategy Task Force legislation was amended in 2011 to require the Mayor to update the Comprehensive Housing Strategy no later than 5 years after the previous Task Force presented its Comprehensive Strategy. As the most recent Report was published on March 13, 2013, the convening of a new Task Force is overdue. Based on the current state of the affordable housing crisis in the District, it would be prudent for the District convene a body that meets the statutory requirements of the CHSTF legislation as a way to evaluate progress and ensure that investments are coordinated to the greatest extent possible.

Thank you for the opportunity to testify. I look forward to any questions that you may have.