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COMMITTEE MEMBERSHIPS:

**HOUSING AND REAL ESTATE
(CHAIRMAN)**

AVIATION

BUDGET AND GOVERNMENT OPERATIONS

BUILDINGS

COMMITTEES, RULES AND ETHICS

FINANCE

TRANSPORTATION AND PUBLIC WAY

ZONING

April 11, 2007

NOTICE OF MEETING

Notice is hereby given that a Joint Meeting of the

COMMITTEE ON HOUSING AND REAL ESTATE and

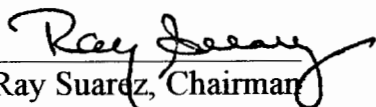
COMMITTEE ON ZONING

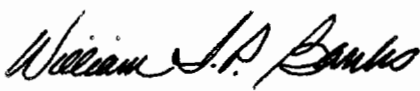
will hold a meeting on TUESDAY, MAY 1, 2007 at 10:00 a.m.

in Council Chambers, City Hall.

The purpose of the meeting is to discuss the amendment to the Affordable Requirements Ordinance (ARO). A copy of the ordinance will be made available in the office of the Chairman, Room 203, City Hall.

Sincerely,


Ray Suarez, Chairman
Committee on Housing & Real Estate


William J.P. Banks, Chairman
Committee on Zoning

SUBSTITUTE
ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 2-44-090 of the Municipal Code is hereby amended by adding the language underscored and by deleting the language struck through, as follows:

2-44-090 Affordable housing commitment.

(a) For purposes of this section:

"Affordable housing" means (1) with respect to rental housing, housing that is affordable to households earning up to 60 percent of the Chicago Primary Metropolitan Statistical Area median income and (2) with respect to owner occupied housing, housing that is affordable to households earning up to 100 percent of the Chicago Primary Metropolitan Statistical Area median income; provided that if a developer develops a lesser amount of affordable housing units pursuant to subsection (d)(2), "affordable housing" for those housing units means, with respect to owner occupied housing units, housing that is affordable to households earning up to 80 percent of the Chicago Primary Metropolitan Statistical Area median income.

"The Chicago Community Land Trust" or "CLT" means the Illinois not-for-profit corporation established by ordinance adopted on January 11, 2006, and published at pages 67997 through 68004 in the Journal of Proceedings of the City Council of such date, and having as its primary mission the preservation of long-term affordability of housing units.

"Commissioner" means the Commissioner of Housing.

"Condominium" means a form of property established pursuant to the Illinois Condominium Property Act.

“Developer” means any person who develops housing units, but does not include a lender or any governmental entity.

“Development” or “develop” means the construction or substantial rehabilitation of housing units or the conversion of any building into residential condominiums.

“Eligibility criteria” means (1) with respect to rental housing, at the time of the first rental by that household, a household earning up to 60 percent of the Chicago Primary Metropolitan Statistical Area median income and (2) with respect to owner occupied housing, at the time of the purchase of the unit, a household earning up to 100 percent of the Chicago Primary Metropolitan Statistical Area median income; provided that if a developer develops a lesser amount of owner occupied affordable housing units pursuant to section (d)(2), the “eligibility criteria” for those affordable housing units means, with respect to owner occupied housing units, at the time of the purchase of the unit, housing that is affordable to households earning up to 80 percent of the Chicago Primary Metropolitan Statistical Area median income.

“Financial assistance” means any assistance provided by the city through grants, direct or indirect loans, or allocation of tax credits for the development of residential housing units.

“Housing unit” means a room or suite of rooms designed, occupied or intended for occupancy as a separate living quarter with cooking, sleeping and sanitary facilities provided within the unit for the exclusive use of the occupants of the unit; provided that a "housing unit" does not include dormitories or hotels as that term is defined in Section 13-4-010 of the Code.

“Initial sale” means the first sale of an affordable housing unit by a developer.

“Planned development” has the same meaning as ascribed to that term in section 17-17-02120 of the Zoning Code.

“Residential housing project” or “project” means one or more buildings that collectively

contain ten or more housing units on one or more tax parcels or lots marketed as a single or unified project or sharing common elements, or comprising a part of a planned development or the addition of ten or more housing units to an existing building.

“Substantial rehabilitation” means the reconstruction, enlargement, installation, repair, alteration, improvement or renovation of a building, structure or portion thereof requiring a permit issued by the city; provided the cost ~~for the project~~ of the substantial rehabilitation must be \$25,000.00 or more per housing unit.

“T.I.F. Guidelines” means those guidelines established pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, et seq. (“T.I.F. Act”), and adopted by the City Council in "An Ordinance Adopting Guidelines for Use of Tax Increment Financing Revenues for Construction of Affordable Housing" passed on July 31, 2002, and published at pages 90838 -- 90859 of the Journal of the Proceedings of the City Council of the City of Chicago of that date.

“Trust Fund” means the Chicago Low-Income Housing Trust Fund, a not-for-profit organization.

(b) (1) Subject to subsections (b)(2),(b)(3),(b)(4) and (d)(2), whenever ~~Whenever~~ the city: (i) approves the rezoning of a lot to permit a higher floor area ratio than would otherwise be permitted in the base district and the lot is subsequently developed with a residential housing project; (ii) approves the rezoning of a lot from a zoning district that does not allow household living uses to a zoning district that allows household living uses and the lot is subsequently developed with a residential housing project; (iii) approves the rezoning of a lot from a zoning district that does not allow household living uses on the ground floor of a building to a zoning district that permits household living uses on the ground floor, and the ground floor is

subsequently developed with a residential housing project; or (iv) sells real property to any developer on which for the purpose of the development of a residential housing project is subsequently developed ten or more housing units, and the sale price is less than the fair market value of the property, the developer shall be required to establish at least ten percent of the housing units as affordable housing or the equivalent as provided in subsection (d); provided that the developer of any residential housing project subject to clauses (b)(1)(i), (ii) or (iii) and subject to subsection 17-4-1004-D of the Zoning Code may meet the affordable housing requirements provided in this section by complying with the affordable housing floor area bonus provided for in section 17-4-1004; provided however further, that if a developer also receives financial assistance, the developer instead shall comply with the requirements of subsection (c) of this section

(2) In the case of existing buildings subject to the requirements of subsection (b)(1), subsection (b)(1) shall apply as follows:

- (i) for an existing building that contains housing units at the time of the approval of the zoning change, only the additional floor area space that is developed with a residential housing project is subject to the affordable housing requirement;
- (ii) for an existing building that contains a mixed use occupancy with one use being residential at the time of the approval of the zoning change, only the additional floor area space approved for residential use that is developed with a residential housing project is subject to the affordable housing requirement; or
- (iii) for an existing building with respect to which the developer receives financial assistance pursuant to subsection (c) or has purchased city land pursuant to clause (b)(1)(iv), the entire building is subject to the affordable housing requirement.

(3) The provisions of subsection (b)(1) shall not apply to: (i) any residential housing project located on property that was rezoned and thereby converted to a nonconforming use, if the City Council approves a change in zoning solely for the purpose of restoring the residential housing project to a conforming use; or (ii) the development of a residential housing project on a lot that has been rezoned as described in clauses (b)(1)(i),

(ii) or (iii) for which a building permit is applied for 3 years or more after the date of the approval of the zoning change by the City Council.

(4) Subject to subsection (d)(2), for every planned development, the development of affordable housing shall be as follows:

(i) For every planned development that does not meet the eligibility requirements of subsection 17-4-1004-B of the Zoning Code and for which the city approves the rezoning of a lot as described in clauses (b)(1)(i), (ii) or (iii) or sells real estate to the developer, and in which a residential housing project is developed, the developer shall be required to establish ten percent of the housing units as affordable housing or the equivalent as provided in subsection (d).

(ii) For every planned development that meets the eligibility criteria of subsection 17-4-1004-B of the Zoning Code and for which the city approves the rezoning of a lot as described in clauses (b)(1)(i), (ii) or (iii) or sells real estate to the developer, and in which a residential housing project is developed, the developer shall be required to establish ten percent as affordable housing or the equivalent as provided in subsection (d); provided that if the planned development is also subject to the requirements of section 17-4-1004-D, the developer may elect to meet his or her affordable housing requirements provided for in this section by

complying with the affordable housing floor area bonus provided for in section 17-4-1004.

(iii) For every planned development that meets the eligibility criteria of subsection 17-4-1004-B which does not involve any rezoning of the lot as described in clauses (b)(1)(i), (ii) or (iii), or the sale of any real estate by the city, and in which a residential housing project is developed, the developer shall be required to establish ten percent of the housing units as affordable housing or the equivalent as provided in subsection (d), unless the developer participates in the affordable housing floor area density program by purchasing additional floor area pursuant to section 17-4-1004.

(iv) For every planned development for which the developer receives financial assistance and in which a residential housing project is developed, the developer shall comply with the requirements of subsection (c) of this section.

(v) The provisions of this subsection (b)(4) shall not apply to any planned development for which:

(A) a planned development agreement or other agreement was specifically authorized by the City Council prior to the effective date of this 2007 amendatory ordinance; or

(B) an amendment to a planned development agreement or other agreement is specifically authorized by the City Council after the effective date of this 2007 amendatory ordinance; provided however, that if such amendment authorizes the addition of floor area for the development of 10

or more housing units, the development of the additional housing units shall be subject to the affordable housing requirement of this subsection.

(c) Subject to subsection (d)(2), whenever ~~Whenever~~ financial assistance is provided to any developer in connection with the development of a residential housing project ten or more housing units, the developer shall be required to establish at least 20 percent of the housing units as affordable housing or the equivalent as provided in subsection (d).

(d) (1) A developer subject to the provisions of subsections (b) or (c), who receives financial assistance, or acquires city property for less than fair market value may establish affordable housing by one or more of the following: (1 i) the development of affordable housing units as part of the development residential housing project; (2 ii) payment of a fee in lieu of the development of affordable housing units; or (3 iii) any combination thereof. The amount of the fees described in clause ~~(2)~~ (d)(1)(ii) shall be \$100,000.00 for each affordable housing unit not developed as part of the development residential housing project, adjusted annually based upon the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for all Urban Consumers for the Chicago metropolitan area, or some other comparable index selected by the commissioner in his reasonable discretion if this index no longer exists. Such fees shall be deposited into the Affordable Housing Opportunity Fund, unless required to be deposited into another fund pursuant to federal or state law.

(2) The number of affordable housing units developed in a residential housing project may be less than ten percent as required by subsection (b) or less than twenty percent as required by subsection (c), if the developer develops on-site

owner occupied affordable housing units at a price that is affordable to households earning up to eighty percent of the Chicago Primary Metropolitan Statistical Area median income, and the commissioner determines that the development of the lesser amount of such housing units is substantially equivalent to the developer's total affordable housing requirement pursuant to this section. The development of a housing unit pursuant to this clause shall be subject to all of the other provisions of this section.

(e) A separate fund is hereby established designated the Affordable Housing Opportunity Fund which shall be supported by the fees collected under this section. The revenues of the Affordable Housing Opportunity Fund shall be disbursed as follows:

(1) Sixty percent of the annual revenues deposited into the fund shall be used for the construction or rehabilitation of affordable housing; and subject to appropriation by the city council; and

(2) Forty percent of the annual revenues deposited into the fund shall be contributed to the Trust Fund of which one-half of the forty ~~20~~ percent shall be restricted solely for the purpose of deposit into the Trust Fund's corpus, and the remaining one-half of the forty ~~20~~ percent shall be used for the Trust Fund's Affordable Rents for Chicago program, or similar successor program.

(f) The affordable housing units required by this ordinance shall continue to be affordable housing for a period of 30 years after the time of the issuance of the certificate of occupancy (or after the first day of the initial lease if no such certificate is issued) in the case of rental housing or after the closing of the initial sale in the case of owner-occupied housing, unless:

(1) The property is foreclosed upon or condemned, or a deed in lieu of foreclosure is given; or

(2) The seller of an affordable housing unit has sold the unit to a household that does not meet the eligibility criteria and has paid the recapture fees required by subsection (i) of this section; or

(3) The affordable housing unit is placed in or administered by the CLT, in which case the requirements of subsection (j) of this section shall apply.

(g) Except as provided in ~~subsection~~ subsections (i) and (j) of this section, the rental or sale of an individual affordable housing unit required under this section shall be made only to a household meeting the eligibility criteria.

(h) With respect to ~~developments~~ the development of residential housing projects and planned developments assisted by the city with tax increment revenues ("T.I.F. Funds") in redevelopment project areas established pursuant to the T.I.F. Act, to the extent that the requirements of ~~subsections (b), (c), (d) and (f)~~ of this section conflict with the T.I.F. Guidelines, the T.I.F. Guidelines shall prevail.

To the extent that redevelopment plans approved pursuant to the T.I.F. Act provide that developers who receive T.I.F. Funds for market rate housing set aside 20 percent of the units to meet "affordability criteria established by the Department of Housing," the requirements of ~~subsections (b), (c), (d) and (f)~~ of this section shall be deemed to be the "affordability criteria established by the Department of Housing" and shall supersede all others.

(i) Prior to the issuance of a building permit, for any planned development or residential housing project subject to the affordable housing requirements of this section:

(1) the developer shall pay an amount equal to the required fee in lieu pursuant to

subsection (d)(1)(ii); or

(2) The commissioner shall cause record a lien, regulatory agreement or similar instrument to be recorded, initially, prior to development, against the land comprising the planned development or residential housing project, and subsequently, in connection with the sale or rental of any affordable housing unit, against the land on which such with respect to each affordable housing unit is located to secure the requirements of this section and the recapture of the following amounts:

(1 i) Upon the initial sale of any housing unit required to be affordable housing under this section at a price that renders the housing unit not affordable housing, or to a household that does not meet the eligibility criteria, the developer shall pay an amount equal to the payment of fees in lieu of creating the affordable housing unit as provided in subsection (d)(2 1)(ii) of this section;

(2 ii) Upon the resale or transfer of any housing unit required to be affordable under this section at a price that renders the housing unit not affordable housing, or to a household that does not meet the eligibility criteria, the seller or transferor shall pay an amount equal to the difference, at the time of the initial sale, between the affordable housing unit's market value and its affordable housing price plus three percent per year interest from the date of the initial sale on that difference, unless the affordable housing unit is placed in or administered by the CLT, in which case the requirements of subsection (j) of this section shall apply;

(3 iii) Upon the rental of any housing unit required to be affordable under this section at a rental price that renders the housing unit not affordable housing, or to a household that does not meet the eligibility criteria, the owner shall pay a fee of \$500.00 per unit per day for each day that the owner is in noncompliance; provided that prior to the assessment of the penalty, the owner shall have 90 days, after written notice from the commissioner, to cure the noncompliance. If after 90 days the owner fails to cure the noncompliance, the fees shall be assessed from the first day of noncompliance. The 90-day time period to cure the noncompliance may be extended by the commissioner for good cause: ;

(iv) Any fines or penalties imposed by the city for a violation of this section.

The fees collected under this subsection shall be deposited into the Affordable Housing Opportunity Fund, unless required to be deposited into another fund pursuant to federal or state law.

(j) Subject to approval of the commissioner, affordable housing units required to be provided pursuant to this section may be placed in or administered by the CLT. The initial rental or sale of such affordable housing units shall be subject to the income eligibility and price restrictions set forth in this section, but the resale or transfer of such affordable housing units, and the amounts subject to recapture in connection with a violation of the CLT's resale and transfer restrictions, shall be governed by the terms of a restrictive covenant, long-term ground lease, or similar instrument, designed to balance the competing goals of long-term affordability and providing a fair return on the homeowner's investment.

(k) Failure to pay the required fee in lieu or develop the on-site affordable housing units required by this section shall be a violation of this section punishable by a fine in an amount equal to two times the payment of fees in lieu required in subsection (d)(1)(ii) of this section and, in the case of a residential real estate developer licensed pursuant to chapter 4-40, the revocation of the developer's residential real estate developer license.

(l) The commissioner is authorized to adopt such rules and regulations as the commissioner may deem necessary for the proper administration and enforcement of this section.

SECTION 2. Chapter 4-40 of the Municipal Code is hereby amended by adding the language underscored and by deleting the language struck through, as follows:

4-40-065 Duties.

A licensee or any person requiring a license under this chapter shall have the following duties:

(omitted text is unaffected by this ordinance)

(D) To comply with the requirements of section 2-44-090, if applicable.

4-40-070 License--Revocation.

Three or more violations of this chapter on three different days within a 12-month period may result in license revocation in accordance with section 4-4-280 of this Code; provided that a license may be revoked for a single violation of subsection 4-40-065(D).

SECTION 3. Title 17 of the Municipal Code of Chicago is hereby amended by adding new sections 17-4-1004-F, 17-13-302-D and 17-13-0613, by adding the language underscored, and by deleting the language struck through, as follows:

17-4-1004-D Rezoning to Higher (FAR) District

Property ~~that is rezoned to~~ in a DC, DX or DR district that is rezoned to a zoning classification that allows a higher base floor area ratio and is subsequently developed with additional residential dwelling units must provide on-site affordable housing units or make cash contributions to the city's Affordable Housing Opportunity Fund in accordance with the standards of this subsection; provided that the developer of every residential housing project, as that term is defined in section 2-44-090, and every planned development subject to the provisions of this subsection and section 2-44-090 may elect to comply with the affordable housing requirement provisions of section 2-44-090 instead.

17-4-1004-E Standards

Buildings that meet the eligibility criteria of section 17-4-1004-B and that provide affordable housing or contribute to the city's Affordable Housing Opportunity Fund are eligible for floor area bonuses provided they comply with the following standards. These standards also apply to projects that are subject to 17-4-1004-D.

1. Projects that receive city financial assistance to provide affordable housing are **not** eligible for affordable housing floor area bonuses; provided that any payment of fees in lieu or the creation of on-site affordable housing units required as a condition of the financial assistance shall not count as payment of fees in lieu or the creation of on-site affordable housing units for purposes of the affordable housing floor area bonus.

2. Relationship to Mandatory Affordable Housing Standards

Projects that are required to provide affordable housing by other city ordinances are **not** eligible for affordable housing floor area bonuses; provided that any payment of fees in lieu or the creation of on-site affordable housing units required by such city ordinance shall not count as

payment of fees in lieu or the creation of on-site affordable housing units for purposes of the affordable housing floor area bonus unless the project is a residential housing project or planned development subject to the provisions of section 2-44-090 that is meeting its affordable housing requirement pursuant to that section.

(omitted text is unaffected by this ordinance)

5. Term

The minimum guaranteed term for continued affordability of affordable housing units must be no less than 30 years, unless the affordable housing units are placed in or administered by the CLT, as that term is defined in section 2-44-090. The initial rental or sale of such affordable housing units place in or administered by the CLT shall be subject to the income eligibility and price restrictions set forth in this section, but the resale or transfer of such affordable housing units shall be governed by the terms of a restrictive covenant, long-term ground lease, or similar instrument, designed to balance the competing goals of long-term affordability and providing a fair return on the homeowner's investment.

6. Timing of Cash Payments and Financial Guarantees

Property owners that are subject to the affordable housing standards of this section must pay the required cash contribution or provide a performance bond or other security ensuring construction of the affordable housing units before the issuance of building permits for the construction of the subject buildings. Such bond or security must be:

- (a) in an amount equal to the cash contribution required under 17-4-1004-C2 or Sec. 17-4-1004-D2 , whichever is applicable; and
- (b) released after the commissioner of housing has certified that the on-site

~~affordable housing units have been created when the premises have been inspected and the Zoning Administrator has certified that the affordable housing units have been constructed.~~

(omitted text is unaffected by this ordinance)

17-4-1004-F Affordable Housing Requirement

The developer of every planned development and every residential housing project, as that term is defined in section 2-44-090, subject to the provisions of section 2-44-090 shall comply with the requirements of section 2-44-090, if applicable, unless the developer elects to comply with the affordable housing requirement provisions of section 17-4-1004 instead.

17-13-302-D Affordable Housing Requirement

Property that is rezoned to a zoning classification that allows a higher base floor area ratio and is subsequently developed with a residential housing project, as that term is defined in section 2-44-090, shall comply with the affordable housing requirements of section 2-44-090, if applicable; provided that the developer of every residential housing project subject to the provisions of section 2-44-090 and subsection 17-4-1004-D may elect to comply with the affordable housing requirement provisions of section 17-1004 instead.

17-13-0613 Affordable Housing Requirement

Every planned development in which a residential housing project will be developed, as those terms are defined in section 2-44-090, shall comply with the affordable housing provisions of section 2-44-090, if applicable; provided that the developer of every planned development subject to the provisions of section 2-44-090 in which a residential housing project will be developed may elect to comply with the affordable housing requirement provisions of section 17-1004 instead.

SECTION 4. Severability. If any provision of this ordinance is held invalid, such provision shall be deemed excised from this ordinance and the invalidity thereof shall not affect any of the other provisions of this ordinance. If the application of any provision of this ordinance to any person or circumstance is held invalid, it shall not affect the application of such provision to other persons or circumstances.

SECTION 5. This ordinance shall be in force and effect 90 days after its passage and publication but shall not apply to: (1) any residential housing project developed on land acquired by the developer within 2 years prior to the passage of this ordinance; or (2) any application for zoning change or a planned development that was filed with the Zoning Administrator prior to the effective date of this ordinance.