

TOWN OF BROOKLINE ADVISORY COMMITTEE
LAND USE, ZONING AND SUSTAINABILITY SUBCOMMITTEE

**Article 14: Inclusionary Zoning
Public Hearing (virtual) March 27, 2023**

Attendees: Subcommittee members David Pollak (chair), Patty Correa, Anita Johnson, Linda Olson Pelke, Carlos Ridruejo, Lee Selwyn; Petitioner and Chair of the Housing Advisory Board (HAB) Roger Blood; Kara Brewton, Director of Planning and Community Development; Jonathan Klein (HAB member).

Recommendation: Favorable Action by a vote of 4 – 0 with two abstentions.

The recording of the March 27, 2023 Subcommittee Public Hearing can be viewed here:
<https://brooklinema.zoomgov.com/rec/share/XJzcEEW85K7UIvKAx6QGaDEaX8ON0onTJSSZcKpblCRUzS-VwGOgDKJckFqz9iZy.Hz1v1eArOLOcf2aO>

Executive Summary:	This Article seeks to amend Brookline’s Inclusionary Zoning By-Law, Section 4.08, lowering the maximum size of private housing projects that may make cash payments to the Brookline Affordable Housing Trust Fund (AHTF) in lieu of providing affordable housing units in their developments. Currently, developers may opt to pay the Town fees in lieu of including affordable housing units in their buildings for buildings of four to nineteen units. This Warrant Article would reduce the upper unit limit for this option from nineteen to ten.
Voting Yes will...	require private housing developments to meet the Town’s requirement of including 15% affordable housing units on site in their building or buildings if their developments contain more than ten units, reducing the maximum size of housing developments that may opt for payments to the Town.
Voting No will...	Leave the zoning bylaw unchanged.
Financial impact [if any]	The AHTF is currently well funded and is anticipating significant additional funds from the Welltower project on Fisher Hill in the near future. In a more sustained fashion, Community Preservation Act (CPA) funds will be available to support low-income housing on an annual basis going forward, and the AHTF will be able to compete for this funding stream. So while this Article would reduce income to the AHTF, there are limited investment opportunities for these funds and the HAB does not anticipate that this change will reduce its ability to support any worthy projects. There are no staff or budgetary costs associated with this Article.
Legal implications [if any]	None

Introduction

This Article is filed by Housing Advisory Board Chairman Roger Blood. The Housing Advisory Board oversees the development and execution of affordable housing units in Brookline, whether by private developers, non-profit developers, or the Town. Brookline Zoning Law Section 4.08 requires that private developers of housing containing four or more residential units include 15% of their housing units as “affordable dwelling units” in their plans. “Affordable” units are those available to households with low or moderate incomes according to certain formulas.

Apartment units are considered “affordable” if rented to household members with an income set at the affordable income limit set by the Town, at a rent of 30% of household members’ gross income on rent and tenant-paid utilities. Section 4.08 (5)(d) permits private housing developers of projects of four to nineteen dwelling units to make a cash payment to the Affordable Housing Trust in lieu of including low to moderate income units in their developments. This Article reduces from nineteen units to ten units the size of housing developments that are permitted to opt for a cash payment in lieu of including affordable units in the developments. That is, developers of between eleven- and nineteen-unit buildings would no longer have the option of paying the Town in lieu of including affordable units in their own buildings.

Discussion

The private developers’ opt-out payments are set by Town guidelines on a sliding scale based on the size of the projects and construction costs, currently ranging from two percent of the housing project value at four units to seventeen percent at the nineteen-unit upper limit. These payments have assisted the Town in developing new affordable housing such as the Harold and Ronald Brown Family House developed by 2Life Communities on Harvard Street, and the Colonel Floyd Apartments on Marion Street, currently under development by Brookline Housing Authority. The Town’s investment of “last in” money into these projects has allowed them to move forward, thereby at least participating in the production of far more affordable units than would have been achieved if the Inclusionary Zoning (IZ) bylaw was limited to only the “on site production” option.

The current buy-out option of buildings with four to nineteen units was passed by Town Meeting in 2019. Prior to 2019, the number of affordable units required in building developments and the number of affordable units that developers could opt to buy out varied over time. A brief history of inclusionary zoning in Brookline has been provided by Roger Blood and can be found here: <https://www.brooklinema.gov/DocumentCenter/View/40454>

The “cost” on a per-unit basis of the AHTF’s contribution to past projects has varied significantly over time, from a low of around \$50,000 to well over \$100,000. The upper limit was reached and exceeded for the Station Street project that came before Town Meeting twice but ultimately has not been able to proceed because the level of subsidy – over \$200,000 per unit – was deemed to be not worth the investment when compared with other opportunities.

Two reasons were cited for the proposed change. First, CPA revenue – a one percent annual real estate surtax – is expected to generate about \$3 million annually, with a minimum 10% allocated to each purpose of affordable housing, historic preservation and open space and the remaining 70% allocated among the three purposes as directed by the Town. Second, the preference of including affordable units within newly developed buildings rather than allowing developers to “buy their way out” of mixed-income solutions in favor of building luxury only projects has been loudly heard both within Town Meeting and beyond in recent years.

In response to a question, Roger said that the HAB has worked hard to set the value of payments in lieu of building units to be at a higher level than the cost of building the units. This is because most developers would rather not take on the complexity of a mixed-income project.

Roger noted that there are not a lot of projects in this 11-19 unit range, either in number of projects or number of units, so the overall impact of this change is likely to be relatively modest.

- To date, IZ has produced a total of 104 affordable units (including both on-site and off-site) across 22 separate projects.
- The current pipeline includes 16 projects containing a total of 268 units (total units, not affordable units). Of these, only three projects/39 units are in this 11-19 range. So moving those three projects to on-site affordable units will result in about six new on-site affordable units (15% of 40).

A question was raised whether this is the right time to make this change, as opposed to waiting to see how CPA might effect revenue to the AHTF in the future.

Public Comment

Jonathan Klein spoke in support of the Article. He noted that it is good practice to have at least two affordable units in a development, and that this change will maintain that minimum.

Recommendation:

The Land Use, Zoning and Sustainability Subcommittee voted 4-0 with two abstentions to recommend FAVORABLE ACTION on Warrant Article 14.

Correa – Yes
Johnson – Abstain
Pehlke – Yes
Pollak – Yes
Ridruejo - Yes
Selwyn - Abstain