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April 09, 2019

Chairperson Vivian Moreno  
Land Use and Housing Committee  
San Diego City Council  
202 C Street, 10th Floor  
San Diego, CA 92101

**Subject: Proposed Middle Income Housing Regulations – LU&H Hearing, April 10, 2019**

Chairperson Vivian Moreno:

On behalf of Circulate San Diego, whose mission is to create excellent mobility choices and vibrant healthy neighborhoods, I am writing to suggest amendments to the proposed Middle Income Housing Regulations (MIHR).

Circulate San Diego successfully advocated for a number of elements to be included in the MIHR that was proposed in 2018.<sup>1</sup> We supported the amended MIHR 2018 proposal with recommendations to ensure that the program does not contribute to displacement, and can be utilized by 100 percent affordable developers.

We are writing here to affirm our earlier recommendations, and to suggest additional changes that can help address some of the objections raised about the 2018 proposal. While some of these recommendations may result in fewer projects able to utilize the program, such amendments may ultimately result in a more equitable policy that receives widespread support. Our recommendations are below, and visualized in the attached appendix.

**1. The MIHR should require deed restrictions at 80 and 120 percent of area median income.**

The MIHR should be focused on deed-restricting new units that are affordable to residents of average income. The 80 to 120 percent area median income target is often considered “Moderate Income,” and reflects a range of average household income for a housing market. Deed-restricting units at this Moderate Income level will ensure that households of average means are able to afford new homes. This would still allow a substantial majority of new units in mixed-income developments to still be rented or sold at market-rates. It may also be appropriate to rename the MIHR as the “Moderate Income Housing Regulations.”

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<sup>1</sup> Circulate San Diego, Policy Letter: Draft Middle Income Bonus Regulations – SGLU Hearing, May 21, 2018, May 21, 2018, available at [http://www.circulatesd.org/letter\\_draft\\_middle\\_income\\_bonus\\_regulations\\_sglu\\_hearing\\_may\\_21\\_2018](http://www.circulatesd.org/letter_draft_middle_income_bonus_regulations_sglu_hearing_may_21_2018).

This change will help address the criticism that by building units for households at 120 to 150 percent of area median income, the MIHR is designed to help people who are by their very definition enjoy above-average incomes.

**2. Allow MIHR units to be sold or rented to lower income residents.**

The MIHR should be available for both mixed-income and 100 percent affordable developments. The current proposal (120 to 150 percent of area median income) limits the MIHR units to residents who make at least 120 percent of area median income. This would prohibit an affordable developer from using this program and renting the entirety of their building to low income families. Instead, the rules should be amended to allow for developers to rent or sell their deed-restricted units to any household at or below the MIHR threshold. This is especially important for affordable developers who use grants and tax credits that do not allow for mixed-income development.

This change will help address the criticism that the MIHR is only useful to mixed-income developers, and would not provide any benefits for 100 percent affordable developers.

**3. The MIHR should require the same anti-displacement rules as the Affordable Housing Regulations.**

The MIHR should incorporate language from municipal code section 143.0717, which requires new projects utilizing the Affordable Housing Regulations to replace any displaced affordable homes. Public policy should strive to add new homes at all income levels, while taking care to avoid unnecessary displacement of existing and naturally affordable homes. The two bonus programs should abide by the same rules to avoid one being used to displace, while the other is precluded from doing so.

This change will help address the criticism that the MIHR might encourage developers to displace existing residents who live in older and naturally occurring affordable homes.

**4. Require that the MIHR only be used on projects that set-aside the maximum number of affordable units permitted under the Affordable Housing Regulations.**

The MIHR program should be available only to developments that max-out the City's existing Affordable Housing Regulations. This will generally mean that developments that use the MIHR will choose to set aside 15 percent of base density units at very low income. They would receive the totality of benefits available under the Affordable Housing Regulations. If a project elects to participate in the MIHR, they can receive additional "stacked" benefits for setting aside additional deed-restricted units. This will have the effect of encouraging even more developers to choose to build deed-restricted low income homes, because they can enjoy even higher benefits if they do so.

This change will help address criticism that the MIHR might undermine affordable unit production, by requiring actual construction of low income homes.

**5. Conclusion**

These recommendations are intended to ensure that a MIHR policy advances the cause of affordability for all income levels. Additionally, these recommendations will help address some of the criticisms about the prior proposed version of the program.

If the MIHR is structured correctly, it can advance the goals of building new homes for a diversity of income levels. The program can incentivize production for low income and average income households, as well as new homes that can be rented or sold at market-rates. With our recommendations, the program can be seen as a clear win-win for housing advocates of all stripes.

Sincerely,



Colin Parent  
Executive Director and General Counsel  
Circulate San Diego

**Appendix – Comparison of Proposed Bonus Programs:**

**Comparison of Housing Bonus Programs**

<u>No Bonus</u>	<u>Affordable Housing Regulations (Existing)</u>	<u>Middle Income Housing Regulation (2018 - Withdrawn)</u>	<u>Moderate Income Housing Regulations (Proposed)</u>												
<table border="1"> <tr> <td>Average Income (100% AMI):</td> <td>\$81,800</td> </tr> <tr> <td>Affordable VLI (≤50% AMI):</td> <td>\$45,450</td> </tr> <tr> <td>Moderate Income (≤120% AMI):</td> <td>\$118,950</td> </tr> <tr> <td>Affordable Gross Rents:</td> <td>\$1,023</td> </tr> <tr> <td>Moderate Income Gross Rents:</td> <td>\$2,454</td> </tr> <tr> <td>2BR Average Market Rent:</td> <td>\$1,823</td> </tr> </table>				Average Income (100% AMI):	\$81,800	Affordable VLI (≤50% AMI):	\$45,450	Moderate Income (≤120% AMI):	\$118,950	Affordable Gross Rents:	\$1,023	Moderate Income Gross Rents:	\$2,454	2BR Average Market Rent:	\$1,823
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Base Density	100 Market Rate	Bonus	50 Market Rate												
		Restricted	15 Affordable (≤50% AMI)												
		Base Density	85 Market Rate												
		Bonus	25 Market Rate												
		Restricted	10 Middle Income (≤150% AMI)												
		Base Density	90 Market Rate												
		Restricted	10 Moderate Income (≤120% AMI)												
		Restricted	15 Affordable (≤50% AMI)												
		Base Density	75 Market Rate												
Affordable: 0 Moderate: 0 Middle: 0 Market: 100 Total: 100	Affordable: 15 Moderate: 0 Middle: 0 Market: 135 Total: 150	Affordable: 0 Moderate: 0 Middle: 10 Market: 90 Total: 125	Affordable: 15 Moderate: 10 Middle: 0 Market: 150 Total: 175												