

## **RENTERS AND RENTAL HOUSING IN MONTGOMERY COUNTY**

### **INTRODUCTION**

The Montgomery County Council, recognizing the importance of housing issues for the future of the county, approved the Rental Housing Study as part of the FY15 work program for the Montgomery County Planning Department's Research and Special Projects Division (RSP) and the Montgomery County Department of Housing and Community Affairs (DHCA). RSP and DHCA were to coordinate in conducting an 18- to 24-month study of Rental Housing in the county that will assess how we can best meet the needs of residents across the income spectrum. The initial findings were presented to the Montgomery County Planning Board on July 14 by Kyle Talente from RKG Associates, a consulting firm. The final report was published in February, 2017. The recommendations presented in the report are the major part of this Fact Sheet.

### **WHO ARE RENTERS?**

Renters are finding the rental experience both satisfying and more affordable than owning. A Freddie Mac survey found that 44% of renters said they were very satisfied, and 55% of the renters expected to rent their next residence. Renters are very diverse, and groups are scattered. The 2015 census reports Montgomery County's median gross rent as \$1,627, the number of housing units is 389,000, and the owner-occupied rate is 66.2%. Nationally, new renter households have increased by 9 million in the past 10 years. The nation's rental housing supply falls short of demand by the country's two largest generational cohorts: an estimated 75.4 million Millennials (born between 1980 and 2000) and 74.9 million Baby Boomers (born between 1946 and 1964), many of whom are looking to downsize and perhaps lighten their responsibility for maintenance and repairs. Growth in U.S. renter households in 2017 remains strong, up 365,000 year over year.

The U.S. Housing and Urban Development (HUD) defines area median income (AMI) as 100% median for a four person household. The AMI for Montgomery County is \$107,000. However, the rental study analysis uses the three-person threshold of \$96,300 to reflect the median household size for Montgomery County. Therefore, the Extremely Low (30%) Income limit is \$28,900, the Very Low (50%) is \$48,150, the Low (80%) is \$61,650 and 120% AMI is \$115,560. There are 46,845 renter households in the county. Thirty-seven percent of rental households have 3+ persons. About 66% of renters are over 35 years old, and active adults (55+) make up 25%. More than 50% of renter households earn less than 100% of AMI. Some sub-areas have concentrations over 80% of low and moderate incomes. Households earning below 50% account for 38% of the demand. Seventy-four percent of renter households earn less than 100% of AMI. Only 19% of rental units are affordable to households earning less than 50% of the AMI.

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The economy is the greatest driver of first-time home buyers. These people are usually between 24 and 34. Most owe enormous student loans. Many have graduated from universities with few job prospects and find jobs at low wages that don't match their degrees. Paying off the student loans in addition to an automobile loan consumes half of their income. Renting is their only option. Few can take on a 30-year mortgage, along with all of the other maintenance and more expensive utility bills, when they can barely meet their immediate student loan debt. When the economy shifts into high gear, employers will begin paying workers at wages allowing them to become homeowners rather than renters. Recent news indicates that the economy has greatly improved, but wages are growing very slowly. At the present time, renters comprise 33% of the county's residents.

### **WHAT COMPRISES THE COUNTY'S RENTAL HOUSING SUPPLY?**

Rental housing accounts for about 33% of the housing available in Montgomery County and is concentrated around Metro lines and employment centers. Fifty-five percent of rental units were constructed prior to 1980, and only 14% of rental units have been constructed since 2000. The age of the rental housing supply has created naturally occurring affordable units with a large supply of mostly older units affordable to households earning between 50% and 100% of the county's median income, which is around \$107,000. In addition to naturally occurring affordable rental units, government programs and nonprofit organizations contribute to Montgomery County's affordable rental housing supply. The largest of these providers is the Housing Opportunities Commission (HOC) which is the County's housing authority. HOC houses over 14,500 households primarily in housing it owns and through HUD's Section 8 voucher program. The vouchers pay the difference between 30% of the household's income and the rent in privately owned housing up to a specified level. A number of nonprofits also provide affordable housing. The largest of these is Montgomery Housing Partnership (MHP). Privately owned properties built with federal tax credits as part of the Low Income Housing Tax Credit Program (LIHTC) are another source of a significant number of units at rents designed for households with incomes at 50 or 60% of the median income.

The rental housing market is unbalanced at the highest and the lowest ends of the market. The market is short about 20,000 rental units for households earning less than 30% of the area median income. As a result, 80% of households earning below 30% of the area median income are cost-burdened compared to 50% of renters countywide.

A look at renter occupied households by household size reveals one-person households are 35% of all renters, two-person households are 28%, three-person households are 16% and 4+ persons are 21%. Multi-family units predominate in the Rt. 29 corridor East, the Aspen Hill area, the Silver Spring/Glenmont area and the Rosemary Hills/Kensington area. Condos predominate in Friendship Heights/Bethesda/White Flint area, the Westbard/Kenwood area and the Potomac area. Single family homes predominate in the following areas: Germantown and vicinity, the Ag Reserve, Upper Rock Creek, Patuxent and Cloverly and Rockville/Gaithersburg. The county rental supply has high concentrations of large units.

Almost 40% are 3+ bedroom units which are concentrated in older, predominantly single-family properties. The county's rental housing supply includes single-family detached, condos and family apartment buildings.

### **WHAT ARE RENTERS' CONCERNS?**

The study committee met with Matt Losak, Executive Director of The Montgomery County Renter's Alliance. He pointed out that the vacancy rate in Montgomery County is 1%, and that the industry norm is 5%. In addition to multi-family structures, single-family detached and single-family attached (condos) are in short supply. His priority is organizing tenant organizations. He commented that most renters are middle class and vote. He believes that the current culture is pro-landlord and pro-developer. He asserted that living as a renter in Montgomery County means an unstable home and second-class status. The Renter's Alliance deals with individual tenants. Issues that are frequently brought to their attention include: renters' requests for repairs or even routine maintenance that are usually ignored by landlords and landlords who do not offer a new lease after one year to low-income tenants. These tenants must move, incurring expenses such as rental payment in advance, a security deposit (often a full month's rent) and moving expenses. Another tactic is to offer an additional service, such as water, say at \$16 per month, in addition to the rent. The landlord will take \$16 out of a tenant's payment and use non-payment as grounds for eviction. Renters who attempt to organize or file complaints with the county are subject to retaliatory eviction. Renters must put up with undesirable tenants who are criminal but always pay their rent. Renters whose children have problems with public schools are subject to eviction. An article in the *Washington Post* depicted the eviction process in the District of Columbia. Most of the victims were elderly single or widowed women who owed the landlord as little as \$56.00 in all. Tenants try to move their belongings from the curb when evicted but are often unable to find a place for them.

### **WHAT ARE THE MAJOR ISSUES?**

All of the data and research generated during the Rental Housing Study raised the following major rental housing issues: the Moderately Priced Dwelling Unit Program (MPDU) and revisions to current housing policies, Land Use/Zoning Tools, Preservation Tools and Financial Tools.

#### **The MPDU Program**

The MPDU law was enacted in 1974 and was the first inclusionary zoning law implemented in the United States. Currently, it requires 12.5% to 15% of the units in a subdivision to be affordable to households with incomes up to 60 to 70% AMI. A sliding scale density bonus of up to 22% is available to subdivisions providing more than 12.5% MPDUs. The mandatory price control period was changed in 2004 from 20 years to 99 years for rental units and from 10 years to 30 years for sale units. Over 15,000 MPDUs have been produced since 1976 (through 2016), 10,000 for sale and 5,000 rental.

#### **Recommendations to Improve the Program**

- Increase the MPDU requirement to 15% to produce more units. The impact of the change could be mitigated by allowing some percentage of the units to be priced at higher levels than currently allowed.

- Calculate MPDUs based on FAR (floor area ratio) to improve the ability to get larger units. Currently, the MPDU requirement is a specific number of units that must have the same percentage of efficiencies and one-bedroom units as the market rate units in the complex. The recommended change would allow fewer larger units as long as the floor area devoted to MPDUs equaled the required percentage of the total project floor area. This could allow fewer MPDUs but more large ones for families.
- Initiate a sliding scale of income targets and set aside percentages to meet the needs of lower and higher income brackets. Many jurisdictions do this, allowing some of the required units to be more expensive than Montgomery County currently allows, compensating for requiring that some units must be affordable to extremely low-income households, which is not currently the case.
- Allow more options for MPDU off-site development to increase unit production. The study consultants believe that implementation of this option is unlikely as there is substantial opposition to it.

#### **Land Use/Zoning Tools: Recommendations**

- Inventory potential re-use buildings (underutilized sites). Perform feasibility studies. Engage property owners to expand all-over housing options.
- Conduct a comprehensive review of parking requirements to assess the feasibility of reducing the required number of spaces. Include parking for MPDUs and the Purple Line station neighborhoods in the analysis. The goal is to reduce development costs if possible to create more affordable housing options.
- Revise current density bonus programs to offer better incentives for the development of affordable rental housing, especially at transit stops (including future Purple Line stations). Consider offering a density bonus when 20% of the units in a development are affordable, rather than the current 15%. Continue to use a sliding scale to determine the amount of the bonus.
- Expand use of publicly-owned and nonprofit-owned land to reduce overall cost of development and allow for more affordable units.

#### **Preservation Tools: Recommendations**

- Conduct a comprehensive inventory of market-rate affordable rental properties, mapping the location and tracking information on these properties in order to potentially preserve existing affordable housing. This approach could be used to identify and rank the most desirable, currently affordable properties to determine priorities for preservation.
- Expand the Right of First Refusal program and work with nonprofit developers to preserve existing affordable rental housing.
- Allow the shifting of density from one part of a site to another such that a complete project conforms to density requirements of the zone. With this approach some existing affordable units are preserved while redevelopment is permitted on part of the property. Establish higher MPDU threshold for such properties (20% affordable; 25% in CR zone).

**Financial Tools: Recommendations**

- Increase county funding for price-controlled rental housing preservation/development to encourage the production/preservation of more rental housing affordable to low-income households.
- Build a credit counseling program for potential renters in Montgomery County.
- Require a payment to the Housing Initiative Fund for smaller projects that are not currently subject to the MPDU requirements to increase resources for acquisition or development of housing.
- Require property owners to pay a fee or a tax for every demolished rental residential unit to increase resources for acquisition and/or development of housing, slow the pace of condo conversions and encourage preservation of rental units.
- Develop a Tax Increment Financing (TIF) program for affordable housing to increase resources for acquisition and/or development of housing.
- Partner with Prince George's County to lobby the Maryland legislature for a regional set aside.

**Other Tools**

- Off-Site density averaging
- Property tax abatement
- Commercial linkage fee
- Eviction prevention
- Rent control stabilization
- Payment for partial MPDU units
- Use of the 4% tax credit.

**ASSISTANCE FOR RENTERS**

The county's Department of Housing and Community Affairs (DHCA) will be enforcing the Landlord/Tenant Bill 19-15 that was approved in early 2017. Over the next two years, DHCA will be inspecting every apartment building in the county. DHCA will publish annually a list of all rental properties inspected, their statuses and any violations issued to the landlord. DHCA will issue orders to landlords to correct violations and re-inspect. If the landlord has not made the necessary repair, DHCA will issue a fine and a second order to correct the violation. If the landlord has not responded to two or three violation notices, DHCA will make the repairs and charge the landlords with the cost. DHCA has always responded to tenants' complaints about landlord repairs but now has a more aggressive role. The Landlord/Tenant Bill guarantees tenants a free meeting place and the right to form tenant organizations.

DHCA will also prepare a landlord-tenant handbook in six languages, provide the standard lease included in the 19-15 bill, a landlord-tenant pamphlet and a code enforcement pamphlet. Rental counseling is provided by the Housing Initiative Partnership, a nonprofit organization with offices in Germantown, Gaithersburg and Hyattsville.

An expanded Renters' Tax Credit Bill passed the state legislature this year and is effective for 2016 rental expenses. The tax credit is available to renters 60 years or over of age, to those 100% permanently disabled or to the surviving spouse of one who would pass the disability test. It is also available to low-income renters under 60 years of age who have at least one dependent under the age of 18 living with them and are not receiving a government subsidy for housing. The maximum tax credit is \$1,000. Applications are available online or by mail from Maryland's Department of Assessments and Taxation.

The Commission on Common Ownership Communities was founded 25 years ago to serve the county's condominium and home-owner associations by resolving disputes between them and their members, educating them on their rights and duties and acting as their advocate before other public agencies. One of its chief functions is solving disputes similar to the Landlord-Tenant Commission.

The Montgomery County Commission on Landlord-Tenant Affairs (COLTA) is a quasi – judicial body created to render decisions regarding landlord-tenant complaints that investigators were unable to resolve. The commission has the power to hold hearings and issue decisions and orders that have the force of law and are free of cost. The commission has fifteen members, of whom four are permanent during their three-year term. Having a case heard before the commission is quicker than going through district court and is free.

### **ADDITIONAL TOOLS TO ENCOURAGE LOW-COST RENTAL HOUSING**

The Department of Housing and Urban Development's Low-Income Housing Tax Credit program is valued at more than \$8 billion annually. It began in 1987 and has become the key source of federal support for the creation of affordable rental housing. Developers apply to their states for the credits then use them to leverage private capital to build units for low-income people. Property tax abatements and exemptions have been offered to property owners in some areas in exchange for preserving units as affordable. New York City and Fairfax, Virginia have such programs. Devoting more land owned by government or nonprofits to affordable housing and developing an inventory of affordable housing are other tools to encourage low-cost rental housing.

### **POSSIBLE COUNTY COUNCIL ACTION**

The council approved the Office of Legislative Oversight's (OLO) 2018 Work Program which includes a study of County Tenant Evictions to evaluate how the county works to prevent evictions, how it addresses the issue if the eviction becomes final and how it assists those who are evicted. OLO will also study the rules and criteria in county funded rental assistance programs and how the programs can work with other programs, such as State programs, to complement other types of housing assistance.

The Committee thanks Gwen Wright, Director, Park and Planning; Matt Losak, Renters Alliance; Lisa Govoni, Park and Planning; and Andrew Basile, NAHB, for their assistance.

This Fact Sheet was prepared by the LWVMC Renters and Rental Housing in Montgomery County Study Committee: Elaine Apter, Nancy Bliss, Barbara Hankins, Diane Hibino, Melpi Jeffries (Co-Chair), Holly Joseph, Marcia Kingman, Jan Kulis, Judy Morenoff, Sally Roman (Co-Chair) and Irene Shaulis.

## DISCUSSION QUESTIONS

1. Were you aware of the increase in the number of renters in Montgomery County before reading this Fact Sheet?
2. What do you think are the advantages and disadvantages of renting vs. owning?
3. Is rental housing more or less affordable than home ownership? What are some of the hidden factors, i.e. mortgage income tax deduction?
4. Which recommendations are most beneficial? Which are most feasible? Conversely, what restrictions might we see in rental housing?

## LWVMC HOUSING AND PUBLIC ACCOMMODATIONS POSITIONS

We support Montgomery County policies and programs to increase the supply of affordable housing, to prevent discrimination in housing and public accommodations and to meet the needs of the homeless. (1989, 2005, 2008, 2009, edited 2012)

Support for:

1. **Affordable housing:** Comprehensive efforts by Montgomery County to maintain and increase the supply of affordable housing including: (1967, 1968, 1970, 1978, 1985, 1989, 2005, 2008)
  - a) flexible and comprehensive approaches using private, county, and federal funds
  - b) continued reliance on the Montgomery County Housing Opportunities Commission
  - c) changes in zoning ordinances and related regulations to require provision for low – and moderate income housing in all residential and mixed – use zones [see Land Use Planning 3.a]
  - d) use of scattered sites and application of the principles of economic diversity in residential zoning categories
  - e) use of inclusionary zoning, such as Moderately Priced Dwelling Units (MPDU)
  - f) preservation of existing communities where feasible and/or desired
  - g) strict enforcement of housing codes with shift to civil penalties
  - h) use of tax structure and policies such as tax abatement to maintain and increase the supply of affordable housing
  - i) measures that will increase the supply of workforce housing, defined as from the MPDU maximum to 120% of the median income, including: (2005)
    - i) a combination of incentives, employer assisted housing and mandatory requirements
    - ii) increased density consistent with smart growth
  - j) supportive community services
  - k) encouragement of increase in the stock of single room occupancy (SRO) housing such as personal living quarters by appropriate means
  - l) permitting use of mobile homes on scattered sites and encouragement of well designed mobile parks
2. **Accessory Apartments:**
  - a) permitting accessory apartments with adequate controls to prevent neighborhood deterioration
  - b) the regulations governing approval of accessory apartments should be changed: [see Land Use Planning 3.d]

- i) delete time restrictions on age of home or length of ownership (2005)
- ii) include a maximum neighborhood percentage (2005)
- iii) permit an accessory apartment in a townhouse (2005)
- iv) allow the Board of Appeals to use discretion in granting waivers in exceptional cases
- v) adoption of a streamlined regulatory process, by the County (2005)

### **3. Fair Housing, Public Accommodations, Human Relations**

- a) Comprehensive fair housing legislation in Montgomery County covering real estate and lending practices (1966, 1989)
- b) Continuation of the office of Landlord/Tenant Affairs with quasi-judicial powers (1972, 1989)
- c) A model lease, defined as a mutual contract, which includes a warranty of habitability and protection against retaliatory eviction (1972, 1989)
- d) Comprehensive legislation to outlaw discrimination in Montgomery County with respect to public accommodations
- e) Adequate financing for the Human Relations Commission so that it can perform the functions authorized in the law (1964,1989)

### **3. Special Needs**

Montgomery County policies and programs to provide shelter and services to all individuals with special needs, including individuals with special needs due to mental illness, homelessness, physical disability, developmental disability and age (2005):

- a) Policies and programs include emergency shelters, transitional housing, detoxification centers, halfway houses and permanent housing and support personnel for people with special needs (1989, 2008)
  - i) Support for programs, designed to address homelessness, incorporating the “Housing First” model (2009)
  - ii) Establish a formal coordinating mechanism for all County public, private and non-profit programs and services for the homeless (2009)
- b) Support residential supportive services for individuals with special needs due to mental illness and for other individuals with special needs requiring residential supportive services (2005)
- c) Support production of barrier free or accessible housing as a voluntary effort on the part of the home-building industry, encouraged by a combination of incentives such as an award program and some mandatory measures. (2005)