

Office of the County Auditor
Auditor's Analysis

Council Bill No. 4-2024

Introduced: January 2, 2024

Auditor: Lori Buchman

Fiscal Impact:

If this legislation passes, it will result in developers no longer having the option to pay a fee in lieu of providing the required number of moderate-income housing units (MIHU) in accordance with zoning regulations. This would result in a loss of revenue to the Community Renewal Fund that cannot be estimated, as this revenue can vary in amount each year. However, our review of the County's financial system indicated this revenue has averaged \$2.9 million annually based on the revenue trend from Fiscal Year 2021 to Fiscal Year 2023.

Additionally, passage of this legislation could either compel developers to construct moderate income housing units, amend proposed development plans, or forego development altogether, in the event constructing the required units would make the development economically unfeasible.

- If there is an increase in construction of MIHUs or a reduction in the scope of planned development, the County may realize reduced annual property tax and income tax revenues, as a result of lower property and income tax assessments. One-time revenue sources, such as County transfer tax, recordation tax, school surcharge and road excise tax may be lower if developers reduce the scope of planned development.
- If a developer declines to complete a project due to the MIHU requirement, the County would forego all associated one-time and annual revenue related to that project.
- We are unable to determine the future fiscal impact related to the above scenarios, because it is unknown whether developers will choose to construct the required units or forego a project entirely.

Purpose:

The proposed legislation seeks to remove certain optional methods currently available to developers related to Moderate Income Housing Unit requirements. The optional methods to be removed include:

- Providing units at a different location and as a different ratio of unit types
- Alternative of providing rehabilitated existing MIHUs
- Alternative of satisfying the MIHU requirement in a residential mobile home development
- Substituting units by purchasing, rehabilitating, and selling existing housing units that are in foreclosure
- Offering substitute units to eligible low-income purchasers
- Paying a fee-in-lieu for each MIHU required
- Offering of a MIHU for sale or rent to the general public upon expiration of the priority period
- Inclusion of low income and disability housing unit programs in the Housing Director's annual report to the County Executive and the County Council

Other Comments:

The Director of the Department of Housing and Community Development (Director) stated that MIHU fees in lieu were collected based on the construction of 564 units between Fiscal Year 2021 through Fiscal Year 2023, foregoing the development of 57 MIHUs. Based on a review of the County's financial system, MIHU fee in lieu revenues totaled \$8.8 million during this period. This results in an average of \$154,027 collected by the County for each foregone MIHU.

According to the Director, in the last three years, no new MIHUs were sold to the general public without restriction to price after the priority period expired. One resale unit was sold at market price to the general public, for which the County received \$67,533, which represented 50 percent of the net proceeds.

Attachment A is a schedule provided by the Director that illustrates how the fees-in-lieu have been disbursed since Fiscal Year 2021.

**Attachment A
Fee-In-Lieu Expenditure Trend**

Vendor	Description	FY 2021 Expenditures	FY 2022 Expenditures	FY 2023 Expenditures	Total Expenditures	FY 2024 Appropriations
N/A	Settlement Down Payment Loan Program	615,592.00	762,836.00	649,239.00	2,027,667.00	500,000.00
Grant to Housing Commission	Beech's Farm Gap Financing	-	-	1,500,000.00	1,500,000.00	-
Grant to Housing Commission	MIHU Preservation	-	-	289,597.31	289,597.31	-
Rebuilding Together Howard County	Urgent Repair	37,169.60	72,776.48	128,357.92	238,304.00	250,000.00
Bridges to Housing Stability	Landlord Engagement	60,608.54	51,313.37	113,000.00	224,921.91	105,500.00
N/A	Homeowners' Assistance Program		188,100.00	-	188,100.00	-
Community Action Council	Rental Assistance	21,407.88	-	105,000.00	126,407.88	105,500.00
Rebuilding Together Howard County	Reasonable Accommodation Repairs	-	-	100,000.00	100,000.00	100,000.00
Makingchange, Inc.	Financial Education	10,632.37	35,114.20	35,118.06	80,864.63	54,500.00
Shellpoint Mortgage Servicing	Foreclosure Prevention	-	-	25,770.71	25,770.71	-
Enterprise Community Development	Waverly Winds Gap Financing	-	-	-	-	2,000,000.00
Enterprise Community Development	ROFR (Ranleigh) Gap Financing	-	-	-	-	2,000,000.00
Mission First Housing Development	Patuxent Commons Gap Financing	-	-	-	-	1,000,000.00
Total		745,410.39	1,110,140.05	2,946,083.00	4,801,633.44	6,115,500.00