



BOSTON CITY COUNCIL

Committee on Housing and Community Development
Liz Breadon, Chair

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REPORT OF COMMITTEE CHAIR

August 2, 2024

Dear Councilors:

The Committee on Housing and Community Development was referred the following dockets for consideration:

Docket #0633, Message and order for your approval an Order authorizing the City of Boston, acting through its Mayor's Office of Housing, to accept and expend payments in the amount of Forty Million Dollars (\$40,000,000.00) given to the City of Boston's Inclusionary Development Policy Fund. The City of Boston's Inclusionary Development Fund (IDP) was established by Executive Order in February 2000 to support the production and preservation of affordable housing in new market rate housing developments.

Docket #0695, Message and order authorizing the City of Boston to accept and expend the amount of Five Million Dollars (\$5,000,000.00) in the form of a grant to provide rapid rehousing services together with wraparound support and recovery services to individuals, with a history of homelessness, awarded by the MA Department of Public Health to be administered by the Mayor's Office of Housing. The grant will fund State ARPA Earmark Mayor's Office of Housing.

These matters were sponsored by Mayor Michelle Wu and referred to the Committee on April 3, 2024 and April 10, 2024.

Summary of Legislation

Docket #0633 is a message and order authorizing the City of Boston to accept and expend \$40,000,000 from payments to the City's Inclusionary Development Policy (IDP) Fund. The IDP Fund is a part of the IDP, a City policy that was first established in 2000 to increase the supply of affordable housing in the City by having developers build affordable housing units on-site, off-site, or by contributing funds to the IDP pursuant to a formula. Since 2000, the policy has been revised in 2003, 2005, 2006, and 2007. Over the years, the Boston Redevelopment Authority (BRA), now known as the Boston Planning and Development Agency (BPDA), adopted several policies to interpret and clarify the IDP orders, guiding its implementation. In December 2015, Mayor Walsh issued a new Executive Order, consolidating and updating the collection of orders and policies into a single document. Mayor Wu announced proposed changes to the IDP in December 2022. The BPDA Board of Directors approved said changes on July 13, 2023, and City Council approved said changes on September 27, 2023.

Currently, IDP is triggered by a request for zoning relief for developments of 10 or more units, with exceptions for developments where forty percent (40%) or more of the units are income-restricted. Thirteen percent (13%) of units must be set aside as income-restricted housing if on-site, with eighteen percent (18%) set aside for off-site units in Zones A or B, and fifteen percent (15%) in Zone C. The Payment in Lieu of Unit (PILU) formula—which dictates the amount of money accepted being discussed in this docket—varies by zone and ranges from \$200,000 to \$380,000 per unit.

The revenue from PILU is typically paid over seven years, and from smaller one-time “partial unit payments.” Eligible usage of the funds include the creation and preservation of new long-term affordable housing units. The units may be homeownership, rental, cooperative or other forms of permanent or transitional housing, and all affordable units will be subject to an affordable housing restriction. The policy integrates income-targeting, requiring rental units created with IDP funding to have a maximum income limit of 70% of the area median income (AMI) and ownership units to have a maximum income limit of 100% of AMI, requiring additionally that at least half the units must be income restricted at 80% of AMI, or less.

Initially, the BPDA managed all aspects of the IDP program and its Board of Directors authorized expenditures for affordable projects. Starting in 2014, some IDP responsibilities and funds were transferred to City agencies. A Memorandum of Agreement dated July 14, 2014, between the then-BRA and the Department of Neighborhood Development (DND), now the Mayor’s Office of Housing (MOH), transferred IDP Funds into a special revenue account held by the City Treasury.

The BPDA continued to enter into Affordable Housing Agreements with developers, while MOH took on the responsibility to collect, administer, and disburse IDP funds for creating or improving additional affordable housing units through a new, transparent, and competitive process. At the time, it was announced that the City of Boston Treasury Department would have a greater role in ensuring that developers pay their obligations in full and on time, and that the Fund would be subject to annual financial audits performed by an independent third party.

Since October 2023, housing compliance staff monitoring and enforcing obligations under IDP agreements have transferred from the BPDA to MOH. On July 18, 2024, the BPDA Board authorized further transfers of the IDP program to MOH, including the authority for the Director to assign Affordable Housing Agreements entered into by the BPDA under the IDP to MOH.

In September 2019, the Boston City Council passed a home rule petition requesting state authorization to codify inclusionary development requirements into the zoning code. The Massachusetts Legislature enacted this amendment to the Boston Zoning Enabling Act in January 2021, and in July 2023, the BPDA Board approved a text amendment incorporating the IDP into the zoning code as Article 79 (Inclusionary Zoning). This amendment was approved by the Boston City Council in September 2023 and adopted by the Zoning Commission in November 2023, effective October 1, 2024. Article 79 increases requirements and maintains certain IDP provisions, including criteria for partial units, off-site unit development, unit characteristics, and an affordability term of 30 years with a 20-year extension, totaling 50 years.

The following data gives a snapshot of the IDP since inception. The policy has permitted or completed 8,261 on-site, off-site, or PILU units. Of those, 6,402 are rental units, 1,835 are ownership units. Since FY15, IDP funds have helped create 2,302 new units in income-restricted housing, of those 2,302 units 1,728 are new rental units and 574 are new homeownership units. In addition, IDP funds have been used to acquire or preserve 604 units of existing rental housing, including 450 unrestricted rental units acquired and converted to permanently affordable housing

through the Acquisition Opportunity Program (AOP) and 154 existing affordable rental units preserved in perpetuity. Prior to 2014, the BPDA collected \$21,514,826 in the IDP fund; since MOH took over fund administration, they have collected \$163,029,059, and are projected to collect \$34,305,778 in FY25. The reason for a \$40,000,000 accept and expend order is to ensure MOH is able to collect up to that amount if there are payments that come in during the fiscal year that were not originally projected. Between FY15 and FY24 there were \$143,015,861 in projects funded, and there are projected commitments of \$65,704,355 in FY25 (this amount is subject to change as it includes pending awards and known pipeline projects). Between FY15 and FY25, project management costs came in at \$10,129,448.

Pursuant to section 53A of chapter 44 of the Massachusetts General Laws, the City Council has taken six votes authorizing the acceptance and expenditure of IDP Funds since 2013 (FY14). These authorizations have been in amounts ranging from \$29,945,245 to \$40,000,000 for a total of \$184,945,245 authorized to date. If the City Council votes to approve the requested authorization in the amount of \$40,000,000, the new cumulative amount authorized to be expended from the IDP Fund will be \$224,945,245.

IDP funds are administered as part of the MOH's efforts to address housing inequities and ensure all Bostonians have access to safe, healthy, and affordable housing. To advance this goal, MOH issues Requests for Proposals (RFPs) offering funding support to nonprofit and for-profit developers for affordable rental, cooperative, and homeownership development proposals. A portion of these funds is allocated for supportive housing for homeless and aging populations. Part of this funding comes from the IDP fund. Resources available in the MOH RFP may not be used to support any on-site IDP units required under the IDP or Article 79. Developers complying with the IDP Executive Order must provide at least 40% of the units as affordable to seek other City subsidies. IDP funds cannot be used to support unrestricted units or units required to be built on-site under the IDP Executive Order.

Examples of past and current usage of IDP funds are as follows: Parcel 25, Phase A, Mission Hill – 46 units of mixed income affordable rental housing ranging from 30-60% of the area median income, 775 Huntington Avenue, Mission Hill – 12 story, mixed use, mixed income development with 112 units, including 57 income-restricted rental units and 55 mixed income condominiums, Stonley Brookley, Jamaica Plain – 45 income-restricted homeownership units, including 5 live-work studios, Magnolia-Woodford, Roxbury – seven units of mixed income housing, including five income restricted units that will be held under a long term ground lease with Dudley Neighbors, Inc, Aileron Homeownership, East Boston – seven income-restricted condominiums create on city owned land, and Parcel 12C, Chinatown – mixed income and mixed use development with 36 homeownership units and 96 rental units created on land owned by the Planning Department.

Docket #0695 is a message and order authorizing the City of Boston to accept and expend a grant in the amount of five-million dollars (\$5,000,000) from the U.S. Department of Treasury administered through the Massachusetts Department of Public Health as directed under section 220 of Chapter 268 of the Acts of 2022. The purpose of the grant is to provide rapid rehousing services (rental assistance and housing stabilization) together with wraparound support and recovery services to individuals exiting Substance Use Disorder (SUD) treatment with a history of homelessness in Boston. It aims to quickly connect those leaving rehabilitation with housing, increase their income (through earned income and benefits), and be equitable in distribution, ensuring no subpopulation receives positive outcomes at a significantly lower percentage than others. The grant must be expended by December 31, 2026, will be expended through a Request for Proposal (RFP), and will be awarded to a nonprofit or partnership of nonprofits with expertise in operating rapid rehousing programs and serving participants with SUD.

Information Received at Hearing

The Committee held a virtual public hearing on Dockets #0633 and #0695 on Tuesday, July 30, 2024. In attendance were City personnel representing departments that will expend the grants:

- Chief Dillon, Chief of Housing and Director of Mayor's Office of Housing (MOH)
- Mr. Daniel Lesser, Chief of Staff, MOH
- Mr. Rick Wilson, Director of Administration and Finance, MOH

Mr. Lesser explained the purposes of the post-recovery grant, which are to provide people who are transitioning out of rehabilitation with rapid housing and wraparound services for a period of 24 months. He stated MOH has run many rapid rehousing programs and seen very strong outcomes of participants not returning to homelessness after a 24 month period. He explained that since this is American Rescue Plan (ARPA) funding, this funding must be spent by December 31, 2026, and explained the city will hopefully stand up the program in the coming months. The funds will predominantly cover rental and housing assistance, but part will cover costs for the wraparound services, which include caseworkers and access to other resources. Chief Dillon explained part of these funds will be directed towards veterans with substance use disorders.

Chief Dillon explained the Inclusionary Development Policy Fund appropriation, discussing the basics of the policy, and the impacts of it since its inception. She explained this program has created approximately 8,000 of the 58,000 affordable housing units in the city, or about fourteen percent (14%). Mr. Wilson explained that recently, most projects have opted to build on-site and off-site units rather than paying into the fund. Mr. Wilson gave an overview of the total units created or sustained using the funds and then gave an overview of the total amounts collected into the fund and total amounts expended. He then gave a brief history of all expend and adopt votes taken by the council on these funds since 2013. He concluded by showing examples of built or permitted housing projects that have been funded using IDP funds.

Additionally, MOH representatives responded to questions from the councilors across a variety of issues. In response to a question surrounding the slight difference between the accept and expend appropriation order of \$40,000,000 and the projected revenue of \$34,305,778, representatives responded the difference is to allow for the collection of unexpected funds that may not have been accounted for due to external circumstances. In response to a question on how projects choose their method of IDP compliance – on-site, off-site, or PILU – representatives responded it is in part a community process, and recently there has been a push to have developers build the units on-site, as it is the avenue through which many neighborhoods are creating affordable housing stock. However, in instances where the cash out is very large, and the impacts are evaluated to be greater across the city, MOH does sometimes opt to have the developer cash out. When asked how the funds are distributed, representatives stated it is a request for proposal (RFP) process that looks at proposals that meet some or all of the following requirements: situated in neighborhoods with lower affordable housing opportunities, have been shown to district offices, and are looking at even lower AMIs than required, in part due to the influence of outer Boston communities pushing up Boston's AMI scale. Representatives also discussed other priorities in their distribution, which includes housing for disabled persons and housing being built on previously city owned land.

Councilors and representatives also discussed the financial makeup of the city's affordable housing stock of approximately 58,000, which is a mix of originally federally funded Boston Housing Authority (BHA) housing, IDP units, linkage funds, and other funding sources. They additionally discussed the PILU amounts in the context of construction costs and interest rates

increasing, and representatives stated the PILU amounts have been fixed since 2015. They stated this amount has been a policy until now, but with new changes in the zoning code, this amount will be incorporated into zoning. Representatives stated they are currently having internal conversations weighing IDP requirements against market conditions. Other topics discussed included how to increase homeownership units built with IDP funds, which representatives stated are limited due to the smaller field of other funding sources for homeownership units in comparison to rental units, the structure of the project management expenditures, the roles of the Treasury Department in ensuring fund collection and compliance, the future of the fund as more projects are opting to build units on-site and off-site, the possible mechanisms to ensure projects follow through on obligation to create homeownership units rather than rental units after their project is approved and built, measures to increase the distribution of MOH resources to those who are closest to displacement, and the efforts to redefine perpetuity for IDP projects to be forever and not the current definition of 30 years plus the option to extend 20 years.

Summary of Amendments

Docket #0695 will pass in a new draft to accurately reflect that the originating authority is the United States Department of Treasury.

Committee Chair Recommended Action

As Chair of the Committee on Housing and Community Development, I recommend moving the listed dockets from the Committee to the full Council for discussion and formal action. At that time, my recommendation to the full Council will be as follows:

that Docket #0633 **OUGHT TO PASS**, and

that Docket #0695 **OUGHT TO PASS IN A NEW DRAFT**.

Respectfully submitted,

A handwritten signature in blue ink that reads "Elizabeth Breadon". The signature is written in a cursive, flowing style.

Liz Breadon, Chair
Committee on Housing and Community Development