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CHAIR, COMMITTEE ON GOVERNMENT OPERATIONS AND FACILITIES
THE JOHN A. WILSON BUILDING
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WASHINGTON, DC 20004

May 24, 2021

Nyasha Smith, Secretary
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Dear Secretary Smith,

Today, I, along with Councilmember Brianne K. Nadeau, am introducing the “Generating Affordability in Neighborhoods Act of 2021”. Please find a signed copy of the legislation enclosed.

We have a dire need for more affordable housing. Acquiring existing units and then lowering rents for tenants is a quick and efficient way to increase our supply of affordable housing for residents with limited incomes. The Generating Affordability in Neighborhoods (GAIN) Act of 2021 allows the District to pay housing providers to convert existing rental units into affordable units using covenants on the property.

We all know that rents have been rising in the District, leaving fewer and fewer homes affordable to people earning modest salaries. The average rent for a two-bedroom apartment in the District is \$2,800, far beyond what many of our households can pay. In 2019, a household needed to earn \$133,000, well over the median family income, to feel comfortable renting a two-bedroom apartment in the District.¹ Many families earn far less than that—39,500 households earn less than 30% of the median family income, or about \$38,000 a year for a family of four.²

¹ Lang, Marissa J. “Want to rent in D.C. without being ‘cost-burdened’? A household needs \$132,857 a year, report says,” Washington Post, July 31, 2019, https://www.washingtonpost.com/local/want-to-rent-in-dc-without-being-cost-burdened-a-household-needs-132857-a-year-report-says/2019/07/31/897ed0c8-b2f2-11e9-8f6c-7828e68cb15f_story.html.

² DC Council. Comprehensive Plan Housing Element – Engrossment, May 4, 2021, <https://lims.dccouncil.us/downloads/LIMS/46201/Meeting1/Engrossment/B24-0001-Engrossment3.pdf>.

To afford the rent on an apartment and avoid paying no more than 30% of their income on rent, a family would need to spend less than \$1,000 a month. There are fewer than 6,000 rental units in the District that would meet this family's need, and these units are disappearing.³

The GAIN Act would create a commission of real estate professionals to proactively seek out housing units across the city and negotiate with the owners to acquire those units for the program. The fee the District pays the unit owner would subsidize the housing to offset lower rents for residents. A tenant must earn less than 30% or 50% of the Median Family Income to be eligible to rent a unit in the program and would pay no more than 30% of their income for rent.

Rather than waiting years for new construction to be built, the GAIN Act will give us the ability to quickly add affordable units, including in neighborhoods where high land costs prevent construction of affordable housing. The District must continue to build new affordable housing, but this model allows us to accelerate our affordable housing efforts in more neighborhoods across the city. The GAIN Act is a win-win for residents and for apartment building owners.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R.C. White, Jr.', is positioned above the typed name.

Robert C. White, Jr.
Councilmember At-Large
Council of the District of Columbia

³ Taylor, Yesim S. "Appraising the District's rentals – Rental housing affordability," DC Policy Center, April 1, 2020, <https://www.dcpolicycenter.org/publications/appraising-the-districts-rentals-chapter-iii/>.

Brianne K. Nadeau

Councilmember Brianne K. Nadeau



Councilmember Robert C. White, Jr.

A BILL

IN THE COUNCIL OF DISTRICT OF COLUMBIA

To establish a program to allow the District to place affordability covenants on rental units in existing housing accommodations; to establish the Affordability Covenant Commission; to establish specific restrictions for affordability covenants purchased under the program; to set criteria for eligible housing accommodations; to set criteria for eligible households; to allow the Mayor to create penalties to enforce the act; to detail reporting requirements; and to allow the Mayor to issue rules to implement the act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Generating Affordability in Neighborhoods Act of 2021".

Sec. 2. Definitions.

(1) "Affordability covenant" means an agreement recorded in the land records that sets the maximum rent to be charged on a rental unit for a specified period of time.

(2) "Commission" means the Affordability Covenant Commission.

(3) "Covered unit" means a rental unit set aside for rent as required by the Affordability Covenant Conversion program.

(4) "Housing accommodation" means any structure or building in the District containing 1 or more rental units and the land appurtenant thereto. The term "housing accommodation" does not include any hotel, inn, or lodging for transient guests.

37 (5) "Housing provider" means a landlord, an owner, lessor, sublessor, assignee, or
38 their agent, or any other person receiving or entitled to receive rents or benefits for the use or
39 occupancy of any rental unit within a housing accommodation within the District.

40 (6) "Median Family Income" or "MFI" means the median family income for a
41 household in the Washington Metropolitan Statistical Area as set forth in the periodic calculation
42 provided by the United States Department of Housing and Urban Development, adjusted for
43 family size without regard to any adjustments made by the United States Department of Housing
44 and Urban Development for the purposes of the programs it administers.

45 (7) "Substantial violation" means the presence of any housing condition, the
46 existence of which violates the housing regulations, or any other statute or regulation relative to
47 the condition of residential premises and may endanger or materially impair the health and safety
48 of any tenant or person occupying the property.

49 (8) "Targeted population" means households earning less than 50% of the median
50 family income.

51 Sec. 3. Establishment of the Affordability Covenant Conversion program to place
52 affordability covenants on existing rental housing accommodations.

53 (a) There is established the Affordability Covenant Conversion program ("program"),
54 which shall be administered by the Mayor, and through which, in exchange for an awarded
55 subsidy payment, housing providers will place affordability covenants on rental units in existing
56 housing accommodations to preserve or create affordable rental units for targeted populations.

57 (b) Under the program, the Mayor may award subsidies to housing providers, which shall
58 obligate the housing provider to place affordability covenants on a portion of rental units for a
59 period of years as determined by the Mayor.

60 (c) At least once per year, the Mayor shall issue a request for proposals from housing
61 providers to establish affordability covenants on a portion of rental units in existing housing
62 accommodations. For each request for proposal, the Mayor shall:

63 (1) Develop an application for housing providers;

64 (2) Indicate the minimum duration of the covenants;

65 (3) Set targets in each ward indicating the target number of covered units and the
66 target number of covered units affordable to households earning less than 30% of MFI and the
67 target number of covered units affordable to households earning less than 50% of MFI;

68 (4) Set the maximum rents for units that will be affordable to each percentage of
69 MFI listed in paragraph (3) of this subsection; and

70 (5) Set a deadline for housing providers to return applications to the Mayor.

71 (d) The Mayor shall define criteria for how proposals will be selected pursuant to
72 rulemaking authority section 10 of this act.

73 (e) In response to the request for proposals, a housing provider shall submit an
74 application that at minimum indicates the number of units and the number of bedrooms in each
75 unit on which the provider will place an affordability covenant, the duration of the covenants, the
76 level of MFI to which each unit will be affordable, the subsidy amount the provider is requesting,
77 the history of rental rates for the last 5 years for each unit on which the provider will place an
78 affordability covenant, and the prevailing rents in the housing accommodation.

79 (f) Following the deadline, the Mayor shall:

80 (1) Select housing providers from the pool of applicants to receive a subsidy in
81 exchange for placing affordability covenants on a portion of their units; and

82 (2)(A) Notify selected housing providers with an award letter that specifies the
83 number of units and the bedrooms associated with the units on which the provider must place
84 affordability covenants, the maximum rent to be charged on each covered unit, the income limit
85 of households eligible to lease each covered unit, the duration of the covenants, and the subsidy
86 amount.

87 (B) Within 3 days of receiving an award letter, the housing provider may
88 appeal to the Mayor regarding the details of the award, and the Mayor shall respond to the appeal
89 within 30 days.

90 Sec. 4. Affordability Covenant Commission.

91 (a) There is established an Affordability Covenant Commission to pursue opportunities to
92 increase the number of property owners participating in the Affordability Covenant Conversion
93 program and the number of units with covenants under the program.

94 (b) The Commission shall be comprised of 3 members. Members shall be residents of the
95 District of Columbia who have a demonstrated background and knowledge of residential real
96 estate.

97 (c) Members shall be appointed by the Mayor to serve a term of 4 years, except of the
98 members first appointed under this section:

99 (1) One member shall serve for a term of 2 years, as determined by the Mayor;

100 (2) One member shall serve for a term of 3 years, as determined by the Mayor;

101 and

102 (3) One member shall serve for a term of 4 years, as determined by the Mayor.

103 (d) The Chairperson of the Affordability Covenant Commission shall be selected by the
104 members.

105 (e) A member of the Commission who has an ownership interest in an eligible housing
106 accommodation pursuant to section 6 of this act shall disclose this interest to the Mayor. A
107 housing accommodation in which a member of the Commission has an ownership interest is not
108 eligible for the Affordability Covenant Conversion Program.

109 (f) The Mayor shall provide administrative support to assist the Commission to
110 accomplish its duties.

111 (g) The Commission shall have the authority to:

112 (1) Proactively reach out to eligible housing providers;

113 (2) Negotiate in the District's interest to incorporate additional units into the
114 Affordability Covenant Conversion program in accordance with the target number of units in
115 each ward affordable to households earning less than 30% of MFI and to households earning less
116 than 50% of MFI and the minimum duration of the covenants as determined by the Mayor; and

117 (3) Issue subsidy award letters, pursuant to section 3(f)(2) of this act, in
118 consultation with the Mayor, to eligible housing providers.

119 (h) If a housing provider has submitted an application through the request for proposal
120 process, pursuant to section 3(c) of this act, the provider may not negotiate with the Commission,
121 and if the provider is negotiating with the Commission, the provider may not submit an
122 application through the request for proposal process while negotiations are underway.

123 Sec. 5. Affordability covenants.

124 (a) Housing providers selected by the Mayor to receive a subsidy shall record a covenant
125 in the land records of the District that binds all persons with a property interest in the housing
126 accommodation to restrict the maximum rent on the units that will be affordable to specific
127 income levels for the duration of the covenant as specified in the award letter, pursuant to section
128 3(f)(2) of this act. No unit with an affordability covenant may be leased for more than the
129 maximum rent established by the Mayor pursuant to subsection (b) of this section during the
130 covenant period, except as provided for in section 7(b)(2).

131 (b) The Mayor shall:

132 (1) Set the maximum rent charged to a tenant leasing a covered unit, which shall
133 not exceed 30% of the applicable MFI.

134 (2) The Mayor shall establish income restrictions on covered units for households
135 with incomes below 30% of MFI and incomes below 50% of MFI, according to the targets the
136 Mayor set pursuant to section 3(c)(3).

137 (c) At the expiration of the covenant, a housing provider may apply for a subsidy to
138 extend the duration of the covenant. An application shall be in a form and reviewed in
139 accordance to rules determined by the Mayor pursuant to rulemaking authority in section 10 of
140 this act.

141 (1) At the expiration of the covenant, if the housing provider chooses not to
142 extend the covenant, the housing provider:

143 (A) Shall not increase the rent until the end of the current tenant's lease;
144 and

145 (B) Shall notify the tenant 6 months before the expiration of the covenant
146 that the covenant is ending. The notification shall include the date when the covenant will expire
147 and the rent that will be charged upon the expiration of the covenant.

148 (C) Shall not charge a rent that exceeds the amount of rent charged for a
149 substantially similar rental unit in the same housing accommodation if the covered unit is subject
150 to the rent stabilization program, under the Rental Housing Act of 1985, effective July 17, 1985
151 (D.C. Law 6-10; D.C. Official Code § 42-3501.01).

152 (d) The duration of the covenant on each covered unit shall begin when the unit is leased
153 to an eligible household for the maximum rent, or a rent less than the maximum rent, as
154 determined by the Mayor pursuant to subsection (b)(1) of this section.

155 (e) A unit that is vacant and meets the specifications in the award letter in the selected
156 housing accommodation at the time the covenant is recorded in the land deed, pursuant to
157 subsection (a) of this section, shall be available to be leased to eligible households up to the
158 number of covered units specified in the award letter.

159 (1) If the number of vacant units in the selected housing accommodation is less
160 than the number of covered units specified in the award letter, the next unit that meets the
161 specifications in the award letter to become vacant shall be available to be leased to eligible
162 households up to the number of covered units specified in the award letter.

163 (f) A unit leased by an existing tenant in a selected housing accommodation may receive
164 an affordability covenant if the tenant is determined to be eligible to rent a unit with an
165 affordability covenant, pursuant to section 7 of this act.

166 (g) If a covered unit becomes vacant during the covenant period, the housing provider
167 must notify the Mayor within 7 days of the housing provider's receipt of a tenant's notice to
168 vacate or the vacancy, whichever comes first.

169 Sec. 6. Eligible housing accommodations.

170 (a) Any housing accommodation shall be eligible except a housing accommodation in
171 which a current member of the Commission has an ownership interest.

172 (b) Units proposed for the affordability covenant conversion program shall be in
173 substantial compliance with the housing regulations and any other statute or regulation governing
174 the condition of residential premises.

175 (d) Units that receive a federal or local subsidy may not be subsidized under this
176 program.

177 Sec. 7. Eligible households.

178 (a) Households eligible to lease covered units must be within the targeted population at
179 the time of signing a lease for a covered unit.

180 (b) Households leasing a covered unit must annually certify their income in a process
181 determined by the Mayor.

182 (1) At the annual recertification, if an eligible household's income is below 100%
183 of MFI, the household shall be considered income eligible and remain in the covered unit paying
184 the amount of rent associated with the unit.

185 (2) At the annual recertification, if an eligible household's income exceeds 80%
186 of MFI, the household is no longer eligible for the covered unit and must vacate the unit within

187 12 months of the annual recertification unless the household agrees to pay the unsubsidized rent
188 beginning 12 months after the annual recertification if their income remains above 80% of MFI.
189 If the household agrees to pay market rate rent, the housing provider must designate a new unit
190 as a covered unit with the same number of bedrooms to replace the covered unit when a unit
191 becomes vacant. The housing provider must notify the Mayor in writing that a re-designation is
192 necessary as soon as it is determined and identify the unit to be re-designated.

193 (c) Households shall be selected as tenants of covered units in a process determined by
194 the Mayor pursuant to rulemaking authority in section 10 of this act.

195 Sec. 8. Enforcement.

196 (a) A violation of this act or the rules issued under authority of this act shall be a civil
197 infraction.

198 (b) The Mayor shall establish penalties and civil fines for a violation of this act.

199 (c) The Mayor may establish additional penalties and civil fines if covered units are
200 found to have substantial violations during the covenant period.

201 (d) The Mayor shall monitor the covenants and covered units, including maintaining data
202 on the location of covered units, the number of bedrooms in each unit, the duration of covenants,
203 the anticipated end of the covenant for each unit, whether the covered unit is being leased, and
204 whether the covered unit is being leased to an eligible tenant. This data shall be made available
205 to the public.

206 Sec. 9. Reports.

207 (a) The Mayor shall submit a report of the program to the Council annually, providing:

- 208 (1) The total number of covenants in the program;
- 209 (2) The number of covered units affordable to households earning less than 30%
- 210 of MFI and the number of covered units affordable to households earning less than 50% of MFI;
- 211 (3) The number of covered units in each ward;
- 212 (4) The duration of each covenant on covered units;
- 213 (5) The number of proposals received from housing providers and the number of
- 214 selected proposals;
- 215 (6) The number of units in the program acquired by the Affordability Covenant
- 216 Commission; and
- 217 (7) The average subsidy cost per covered unit to the District; the average subsidy
- 218 cost per covered unit affordable to households earning less than 30% of MFI and the average
- 219 subsidy cost per covered unit affordable to households earning less than 50% of MFI.

220 Sec. 10. Rules.

221 The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act,

222 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules

223 to implement the provisions of this act.

224 Sec. 11. Fiscal impact statement.

225 The Council adopts the fiscal impact statement in the committee report as the fiscal

226 impact statement required by 4a of the General Legislative Procedures Act of 1975, approved

227 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

228 Sec. 12. Effective date.

229 This act shall take effect following approval by the Mayor (or in the event of veto by the

230 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as

231 provided in sections 602(c)(1) of the District of Columbia Home Rule Act, approved December
232 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
233 Columbia Register.