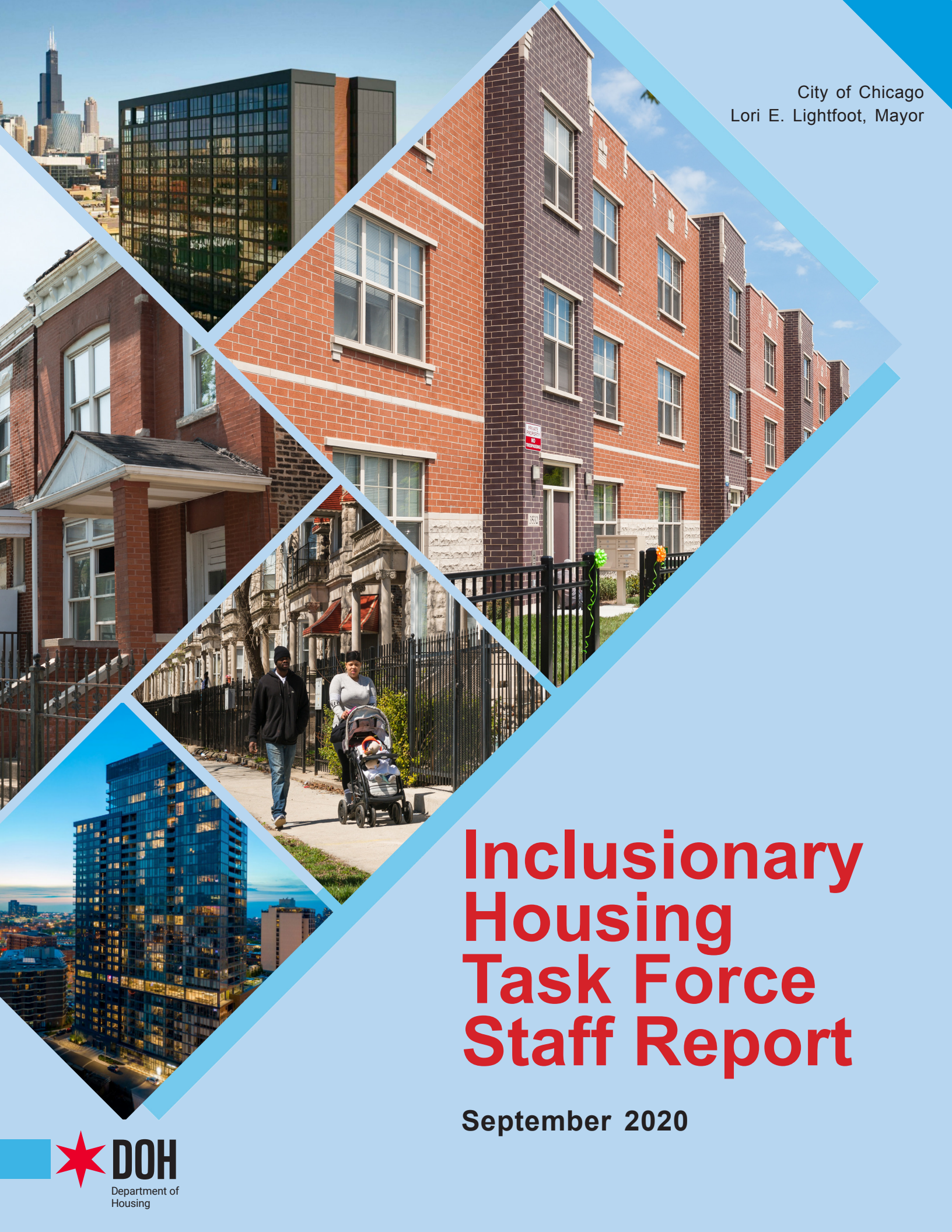


City of Chicago
Lori E. Lightfoot, Mayor



Inclusionary Housing Task Force Staff Report

September 2020

Our fellow Chicagoans,

Every person deserves a safe, healthy, accessible, and affordable home. But for too many Chicagoans, this is not yet a reality. Our longstanding affordable housing crisis, with a citywide shortage of nearly 120,000 affordable homes, requires us to use every tool available to address it, from constructing and rehabbing purpose-built affordable homes, to giving direct rental subsidies to keep rents affordable, to providing down payment assistance and home repair grants to keep homeownership affordable to low- and moderate-income Chicagoans, to ensuring that new private development creates affordable housing in communities where the market and public policy have failed to do so.

This last tool is known as inclusionary housing. In Chicago, our primary inclusionary housing tool is the Affordable Requirements Ordinance, or ARO. The Department of Housing has programs that produce more units of housing—over 2018 and 2019, DOH’s multifamily construction and rehabilitation programs, and the Low Income Housing Trust Fund supported some 2,732 households, while the ARO generated 511 units—but the ARO is unique because of its inclusionary mission.

That mission is crucial because we know that the legacy of racist and classist actions like redlining, contract buying, and restrictive covenants has resulted in Chicago’s status as one of the most segregated cities in the country. The cost of this segregation is high, both for the city’s overall economic vitality and, even more, for those who find their access to jobs, grocery stores, transit and other opportunities limited by their ZIP code. As a city, we must respond both by investing to ensure that every community has a high quality of life—for example, with the Invest SouthWest initiative—as well as by using tools like the ARO so that those Chicagoans who want to remain in or move to a higher-cost neighborhood are able to do so.

Since 2007, the ARO has produced more than 1,000 affordable units, and over \$124 million in in-lieu fees that have been reinvested in affordable housing citywide. But we have also heard from those who need affordable housing, community advocates, and developers that it can be improved, both to better serve Chicago’s inclusionary needs and provide more predictability and transparency to constituents and developers.

The Inclusionary Housing Task Force began in October 2019 with a call for applications to serve, a unique approach designed to ensure that we would hear from a wide range of Chicagoans. From over 200 applications, 20 people were chosen from neighborhood organizations, affordable housing builders, market-rate developers and financiers, and other stakeholders. With co-chairs Juan Sebastian Arias of the Metropolitan Planning Council (now with the Mayor's Office), Tony Smith of PNC Bank, and Stacie Young of the Preservation Compact, we began meeting monthly in December, along with four breakout working groups. In addition, DOH staff held Focus Groups with community advocates, developers, and other stakeholders who were not on the Task Force to receive a wider range of input.

This DOH staff report on the Task Force's work represents the start of new phase in the engagement and work towards a revised ARO. First, let us be clear on what it is not: the report is not an outline of the ordinance to come. Instead, the report documents the major discussions that were held and points towards meaningful changes, such as producing units with deeper subsidies and expanding on existing incentives. We expect it to serve as a launching point for further conversations as we move on to a public comment period, a subject matter hearing at the Committee on Housing and Real Estate in September, and further engagement this fall.

We look forward to working together to strengthen inclusionary housing in Chicago and build a better city for everyone.

Marisa Novara, Commissioner, Chicago Department of Housing

Aldermanic Co-Chairs

Walter Burnett, 27th Ward

Harry Osterman, 48th Ward

Byron Sigcho-Lopez, 25th Ward

Co-Chairs

Juan Sebastian Arias, Metropolitan Planning Council (through July), Mayor's Office

Tony Smith, PNC Bank

Stacie Young, Preservation Compact

Inclusionary Housing Task Force

Aldermanic Co-Chairs:

Alderman Walter Burnett Jr., 27th Ward

Alderman Harry Osterman, 48th Ward

Alderman Byron Sigcho-Lopez, 25th Ward

Task Force Members:

Juan Sebastian Arias*	Metropolitan Planning Council (until July 2020); Mayor's Office
Joy Aruguete	Bickerdike Redevelopment Corporation
Alireza Bahramirad	National Equity Fund
Ciere Boatright	Chicago Neighborhood Initiatives
Christian Diaz	Logan Square Neighborhood Association
Evelyn Diaz	Heartland Alliance
Sarah Duda**	DePaul University Institute for Housing Studies
Efrain Elias	Service Employees International Union
Edgar Flagg	The Resurrection Project
Jasmine Gunn	Claretian Associates
Christine Haley	Cook County Health
Charlton Hamer	The Habitat Company
Tony Hernandez	CIBC; Garfield Park Community Council
Jeffrey Hreben	Tandem Construction
Amy Khare**	National Initiative on Mixed-Income Communities
Tom Kirschbraun	JLL
Mowa Li	Magellan Development Group
Noah Moskowitz	ONE Northside
Cathleen O'Brien	Access Living
Julio Rodriguez	Northwest Side Housing Center
Paul Shadle	DLA Piper
Thurman Smith*	PNC Bank
Susan Tjarksen	Cushman & Wakefield
Joanna Trotter	Chicago Community Trust
Stacie Young*	The Preservation Compact

**Co-Chairs*

*** Technical Advisor*



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Section 1

Introduction



In the first two decades of the 21st century, Chicago has changed in profound ways. The downtown office and residential construction boom of the late 20th century has accelerated, transforming the central area into one of the largest, most prosperous and vibrant central business districts in the world. Reinvestment has continued to spread rapidly out from that central area to outlying neighborhoods, especially to the north and west, but also increasingly to the south —especially along rapid transit lines.

At the same time, the first two decades of the 21st century have also seen a massive exodus of Black Chicagoans from South and West Side neighborhoods in which deep disinvestment continues. In other areas, particularly the northwest and west of downtown, reinvestment has contributed to the displacement of long-established Latinx communities. And while Chicago housing prices have not reached the crisis levels of some coastal cities, they have continued to grow faster than wages, creating an “affordable housing gap” of nearly 120,000 homes and placing swaths of the city out of reach of low-income and working class Chicagoans. Put together, these trends have exacerbated the racial and economic segregation that has plagued the city for over a century.

Chicago Department of Housing (DOH) programs serve a wide range of goals, from pure production of affordable units to supporting low- and moderate-income homeowners to investing in neighborhoods where the market won't. Inclusionary zoning, known in Chicago as the Affordable Requirements Ordinance (ARO), is unique in that its primary mission is to push back against these longstanding patterns of segregation and exclusion. Inclusionary zoning (IZ) is a tool used by many local governments around the country to harness the power of private investments to create affordable rental and ownership opportunities in communities receiving development that is usually targeted at the upper end of the market. All IZ policies share a similar objective: to require an otherwise market-rate development to provide affordable units, or contribute resources towards affordable housing. IZ policies are effective in strong markets because they tie the creation of affordable units to a market-rate residential development.

Under Mayor Lori Lightfoot, DOH is exploring changes needed to fight entrenched patterns of racial and economic segregation, and create more opportunities for affordable housing in historically exclusionary neighborhoods. The centerpiece of the process is a re-examination of the ARO, but a broader range of inclusionary housing policies will also be considered.

In October 2019, DOH created an Inclusionary Housing Task Force composed of 20 local community-based housing advocates, non-profit developers, market-rate developers, and policy experts. This report is a culmination of the input provided by Task Force members, six focus group discussions, and staff research and analysis. Following publication of this report, it will be posted for public comment and the Committee on Housing and Real Estate will hold a subject matter hearing. With those combined inputs, DOH staff will craft an ordinance for introduction to City Council consideration and possible adoption.

The recommendations synthesized in this report do not reflect the actual ordinance; rather, they set the framework for creating the revised ordinance.

Report Structure

The Inclusionary Housing Report is organized into eight sections:

- The second section provides an executive summary of the recommendations detailed in section six.
- The third section provides an assessment of the inclusionary housing landscape. This includes an evaluation of inclusionary housing policies around the county.
- Section four describes the evolution of the Affordable Requirements Ordinance in Chicago. This includes an overview of the City's current policy.
- Section five presents a look inside the City's affordable housing toolbox. This section describes other programs the City has to produce and preserve affordable housing units.
- The sixth section describes the engagement activities DOH coordinated to consult with a variety of stakeholders, and outlines key findings from input gathered during this process.
- Section seven contains detailed feedback from Task Force members and focus group participants, and presents recommendations for ways to strengthen the City's inclusionary housing policies.
- The final section details next steps for how DOH will continue to advance inclusionary housing policies in the City of Chicago.

A Note of Context

It is important to keep in mind that the ARO is not the only affordable housing tool the City of Chicago has, nor is it intended to be a major production tool. By design and definition, inclusionary housing is a portion of a development's units. Other tools such as Low Income Housing Tax Credits produce more than 1,000 units per year on average, and programs such as the City's Low-Income Housing Trust Fund provide subsidies exclusively to households at 30% of the area median income and below. The ARO is crucial as an inclusionary tool, and that is the context within which this Task Force process and report have been created.

The COVID-19 Crisis

Three months into this Task Force's work, the world dramatically changed. The COVID-19 pandemic has not only been a once-in-a-lifetime public health threat, but has wrought devastating social and economic damage on Chicagoans and people worldwide. Because of this, the Task Force postponed its regular monthly meetings early on and when it convened again, took up the question of whether and how the pandemic has changed the task around inclusionary housing and the ARO. It is clear both that the affordable housing crisis has become even more acute in a post-COVID-19 world, and that profound economic uncertainty is also affecting the city's market rate development environment, at least in the near term.

By their very nature, of course, inclusionary zoning policies exist in the context of market cycles, and the Task Force acknowledged that dynamic even before COVID-19 hit. The ongoing crisis means that growing Chicago's stock of affordable, accessible housing is even more urgent, and programs like the ARO that rely on private market activity will need to be especially aware of the intersection of market cycles, inclusionary zoning, and the ultimate provision of that affordable housing.

Section 2

Executive Summary of Recommendations



An equitable inclusionary housing policy needs to meet the needs of low-income, Black and Latinx Chicagoans. The ARO should increase its production of units affordable to households making below 60% of Area Median Income, and of family-sized units. The ARO should expand on the approach used in ARO Pilots and cities like Los Angeles that allows developers to receive greater credit towards their ARO requirements in exchange for more deeply subsidized and larger units and encourage those options.

The ARO should deliver units where they are most needed while offering developers more flexibility, prioritizing inclusion at the community and citywide level. The ARO should require an increase in total unit requirement to be constructed. In neighborhoods vulnerable to gentrification where stemming displacement is a high priority, a higher proportion should be built on-site or very close to the triggering development than in stable high-income areas

For Chicagoans with disabilities, “inclusionary” housing must be both accessible and affordable. The ARO should require that a significantly greater number of required affordable units be built as Type A accessible. In addition, the ARO should establish preferential leasing for these units for Chicagoans who need those accessibility features.

The process by which ARO units are leased should be transparent, efficient, and equitable. Explore a centralized leasing and marketing program through which Chicagoans can identify all available ARO units across the city and apply for all those that fit their needs.

The ARO should continue to recognize different market conditions across the city. In addition to downtown, high-income, and low-moderate income zones, the ARO should recognize areas vulnerable to gentrification and areas of rapid redevelopment. The ARO should replace expiring Pilot Areas with predictable requirements based on these neighborhood typologies that can respond over time to changing market conditions.

The ARO should offer meaningful incentives to allow developers to meet affordability requirements. The ARO should expand on its existing bulk incentives by, for example, providing a credit for unit count and floor area for affordable units. In addition, the ARO should allow developers who do not receive a zoning change to “opt in” to smaller bonuses in exchange for providing a portion of their units as affordable.

Chicago has a fundamental need for more affordable housing funding, especially if changes to the ARO lead to less revenue from in-lieu fees. These changes to the ARO should take place alongside a reinvestment in affordable housing to close the 120,000-unit deficit citywide. Chicago should not rely on inclusionary in-lieu fees to fund affordable housing citywide, and should establish new sources of income.

Section 3

Evolution of the Affordable Requirements Ordinance



This section of the report outlines the evolution of Chicago's inclusionary zoning beginning with the 2004 Affordable Housing Zoning Bonus. In 2007, the Affordable Requirements Ordinance (ARO) was created to include high-income areas beyond the Downtown. The 2007 Ordinance was modified in 2015 by City Council and added to with five Pilot Areas in 2017 and 2018.

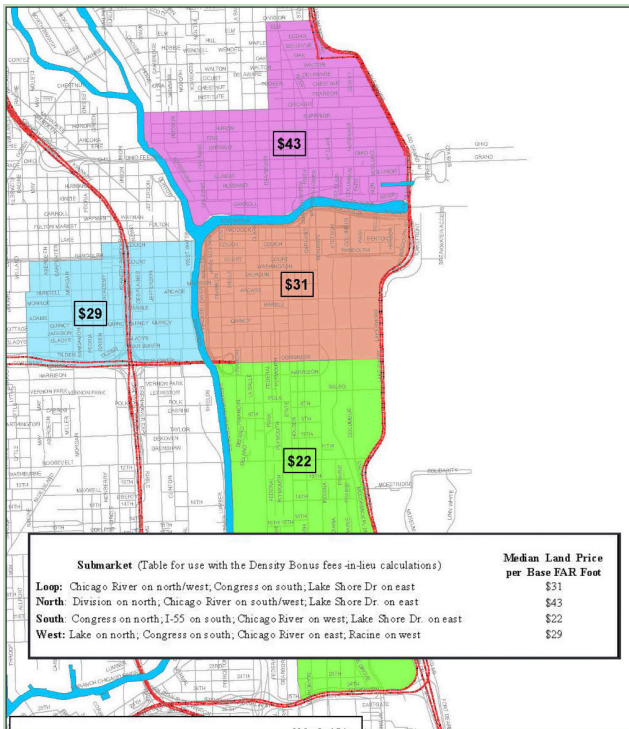
Today, the ARO has led to nearly 1,500 units completed and under construction for very-low and moderate-income households, including more than 1,000 units within new, market-rate housing developments. In addition, in-lieu fees have generated \$123 million for affordable housing across the city through a number of programs, such as the Chicago Low Income Housing Trust Fund (CLIHTF), which provides rental subsidies for more than 2,700 extremely low-income households and gap financing for the construction and rehabilitation of long-term affordable apartments. More data on the ARO can be found on the City's web site at www.chicago.gov/ARO.

2004 Downtown Density Bonus

The Affordable Housing Zoning Bonus – or Density Bonus – was passed by City Council in 2004. The Density Bonus allowed real estate projects in downtown zoning districts to receive additional density in exchange for on-site affordable units or a fee paid to the Affordable Housing Opportunity Fund (AHOF). The ordinance provided downtown developers with the option to pay the lower of the in-lieu fees calculated under the ARO or the Density Bonus.

Developments with on-site units received four square feet of market-rate bonus space for every foot of affordable housing provided. Because of the high cost of downtown land, however, many exercised the in-lieu donation options.

Figure 3.1. 2004 Downtown Density Bonus Fees



Source: Chicago Department of Housing.

2007 ARO

The 2007 ARO triggered new and rehabilitated housing developments with 10 or more units that involved a zoning increase or downtown Planned Development (PD) designation, City-owned land, or City financial assistance.

Residential projects that utilized a zoning increase or City land were required to set aside 10% of total units as affordable to middle-income families. Residential projects that received City financial assistance, such as Tax Increment Financing, were required to set aside 20% of total units as affordable. The ARO also offered real estate developers the option to pay a fee-in-lieu of \$100,000 per required unit into the Affordable Housing Opportunity Fund (AHOF). The 2007 ARO applied to both rental and for-sale unit types and was the same citywide.

Rental Units: Affordable for households earning up to 60% of the Area Median Income (AMI), or \$43,440 for a family of four. Rental units produced under the 2007 ordinance are required to remain affordable for a term of 30 years.

For-Sale Units: Affordable for households earning up to 100% of AMI, or \$72,400 for a family of four. Most for-sale units are administered through the Chicago Community Land Trust, which maintains their affordability in perpetuity.

2015 ARO

The 2015 ARO was triggered when development projects receive a zoning change, City land, or financial assistance, or are a PD within the downtown areas. The ordinance applies to residential projects with 10 or more units, and requires 10% of units to be affordable (20% if financial assistance is provided).

The 2015 ARO created three zones in the city to reflect different housing markets and priorities –downtown; higher-income areas; and low-moderate income areas, see Figure 3.2.

Key 2015 ARO changes include:

Adjusted in-lieu fees: fees increased to \$175,000 downtown and \$125,000 in higher-income areas, and are reduced to \$50,000 in low-moderate incomes areas. For the downtown density bonus, developers are required to pay the higher of their ARO or density bonus fees. Fees adjusted annually for inflation, beginning January 2018.

Required on-site units: ¼ of the required 10% affordable units (20% if the City provides financial assistance) are required to be provided as on-site housing units, with two exceptions:

- *Off-site option:* rental projects downtown and rental or for-sale projects in higher-income areas may build, buy, or rehab the required units with a comparable investment within two miles of the subject properties and within the same zone or downtown; anywhere in the city for for-sale projects downtown. Developers pay a \$5,000/unit administrative fee to access this option.
- *Buy-out for downtown for-sale project:* for-sale projects downtown may buy out of the on-site or off-site unit requirement by paying a \$225,000 in-lieu fee per required unit.

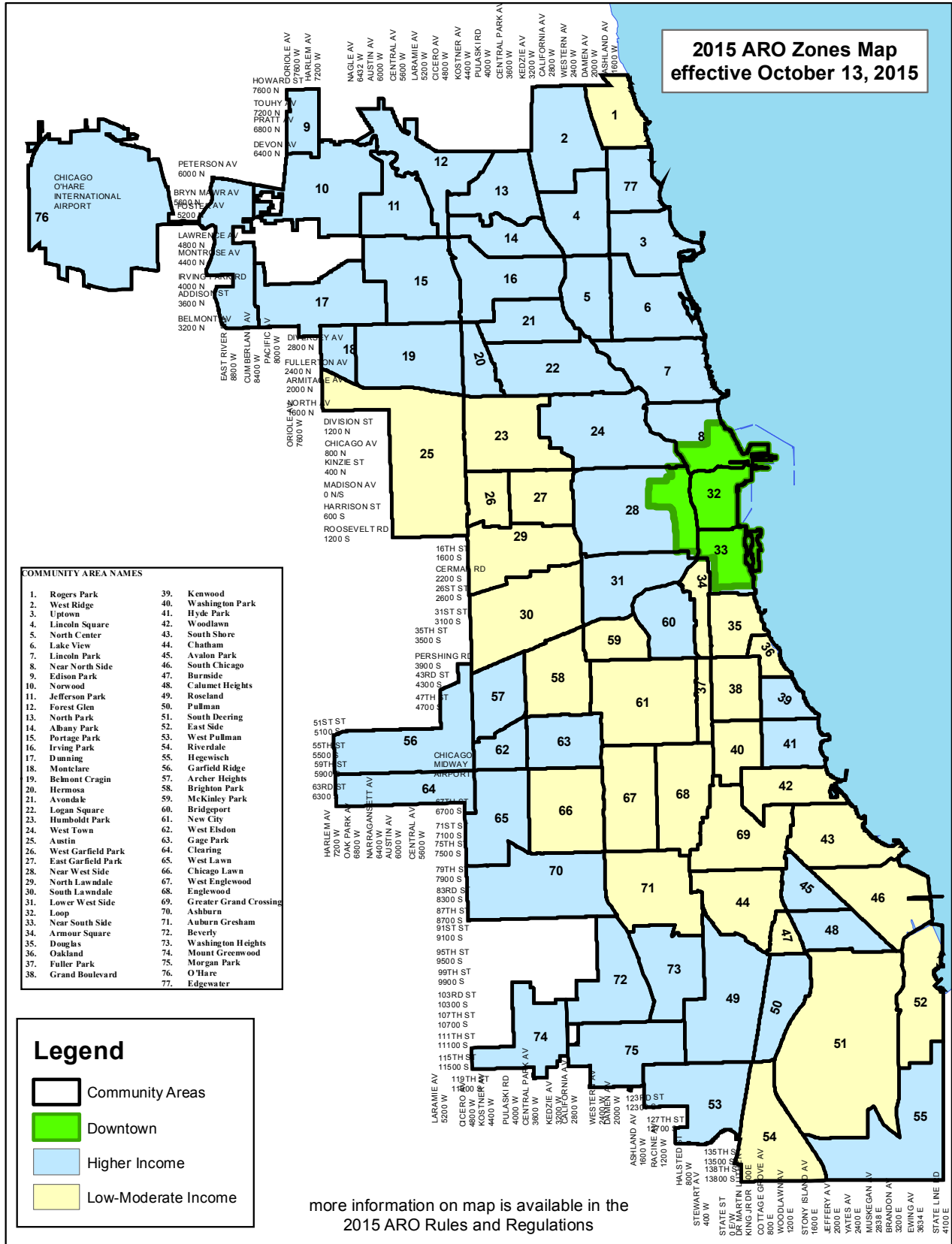
Provide a density bonus for affordable units near transit: projects within the TOD may provide 50% or 100% of required affordable units on-site in exchange for additional floor area.

Incentivize developers to work with the Chicago Housing Authority (CHA): CHA or other authorized agencies may purchase or lease ARO units; in exchange, developers pay a reduced in-lieu fee for remaining unit obligations.

Increase the number of eligible affordable buyers: increases the maximum income for purchasers to 120% AMI.

Increase funding to the Trust Fund: the Chicago Low Income Housing Trust Fund will receive 50% of fees-in-lieu collected via the Affordable Housing Opportunity Fund, up from 40%.

Figure 3.2. 2015 ARO Zones Map



Source: Chicago Department of Housing.

Current Ordinance

The City’s current ordinance is a combination of the 2015 ARO, which applies to projects submitted on or after October 13, 2015, and several Pilot Areas, which were created in 2017 and 2018. The 2015 ARO provides the following options to developers who are subject to the ARO:

Options to meet the ARO	Low-Moderate Income Areas: Rental and For-Sale	Higher-Income Areas: Rental and For-Sale	Downtown: Rental	Downtown: For-Sale
Construct required units on-site and pay no in-lieu fee	X	X	X	X
Place at least 1/4 of the required 10% affordable units (20% if the City provides financial assistance) on-site and pay a fee-in-lieu per any remaining units	X \$52,964	X \$132,411	X \$185,376	X \$185,376
ARO Transit-Served Location bonus (or TOD)	X	X	X	X
Lease or Sell Units to the CHA or other authorized agency and receive a \$25,000 In-Lieu Fee Reduction		X	X	X
Off-Site Option: within two miles and in a higher income area		X	X	
Off-Site Option: anywhere				X
No on-site units - with \$238,340 in-lieu premium				X

In-lieu Fee for projects submitted from January 1 to December 31, 2020. Adjusted annually.

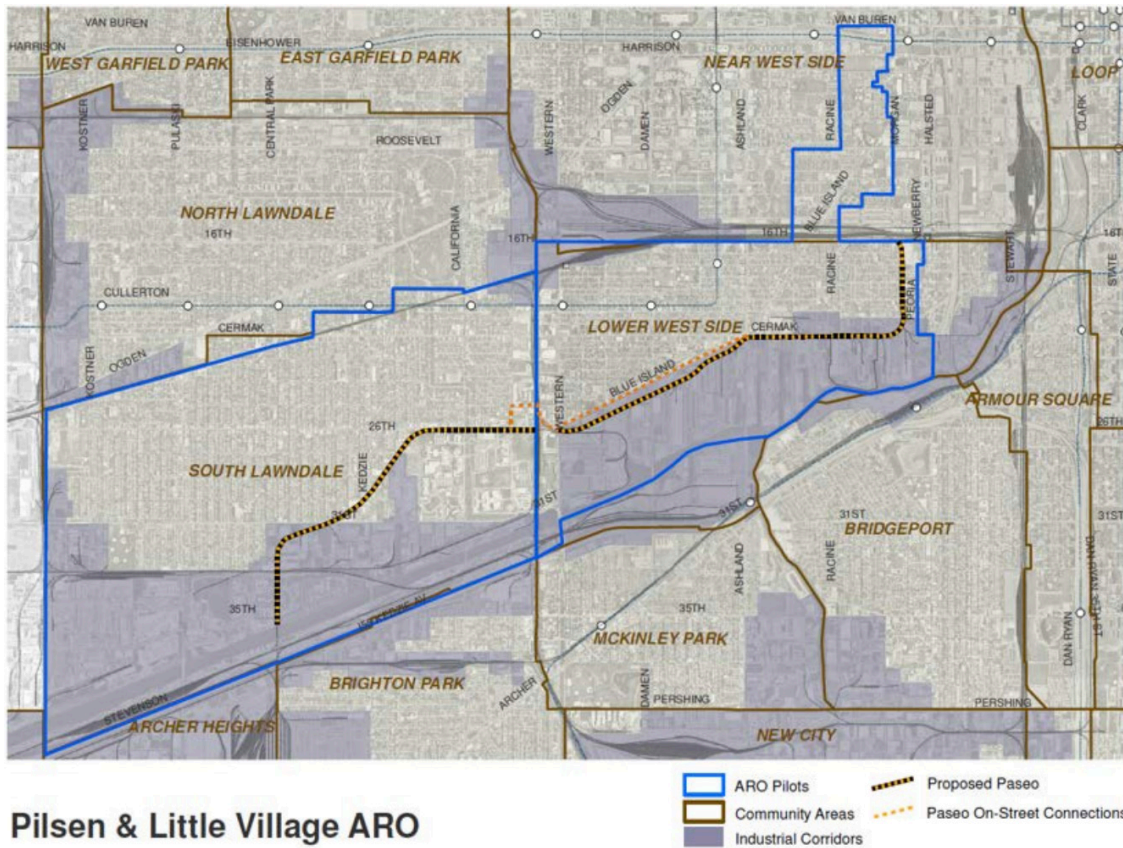
Source: Chicago Department of Housing.

ARO Pilot Areas

On October 11, 2017, the City adopted a pilot program in an effort to mitigate gentrification pressures in three Chicago neighborhoods. The ARO Pilot Areas include the Milwaukee Corridor Pilot Area, and Near North/ Near West Pilot Area. On December 12, 2018, the City expanded the pilot program to include two additional neighborhoods in the Pilsen/Little Village Pilot Area.

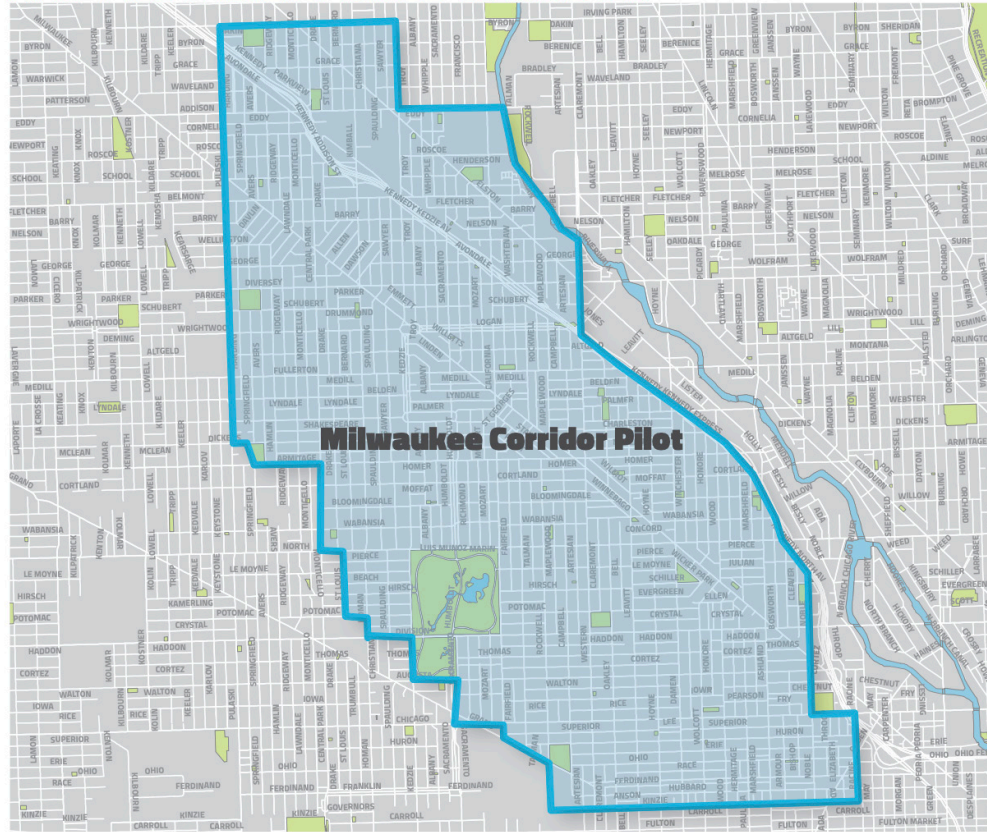
The pilot program aims to increase the number of affordable units within these neighborhoods, removes the option to pay-in-lieu, and adjusts eligibility requirements for prospective occupants.

The Near North/Near West and Milwaukee Corridor Pilots are set to sunset on December 31, 2020, and the Pilsen-Little Village Pilot on December 31, 2023. The following table provides information on each of these pilot areas in comparison to the current 2015 ARO.

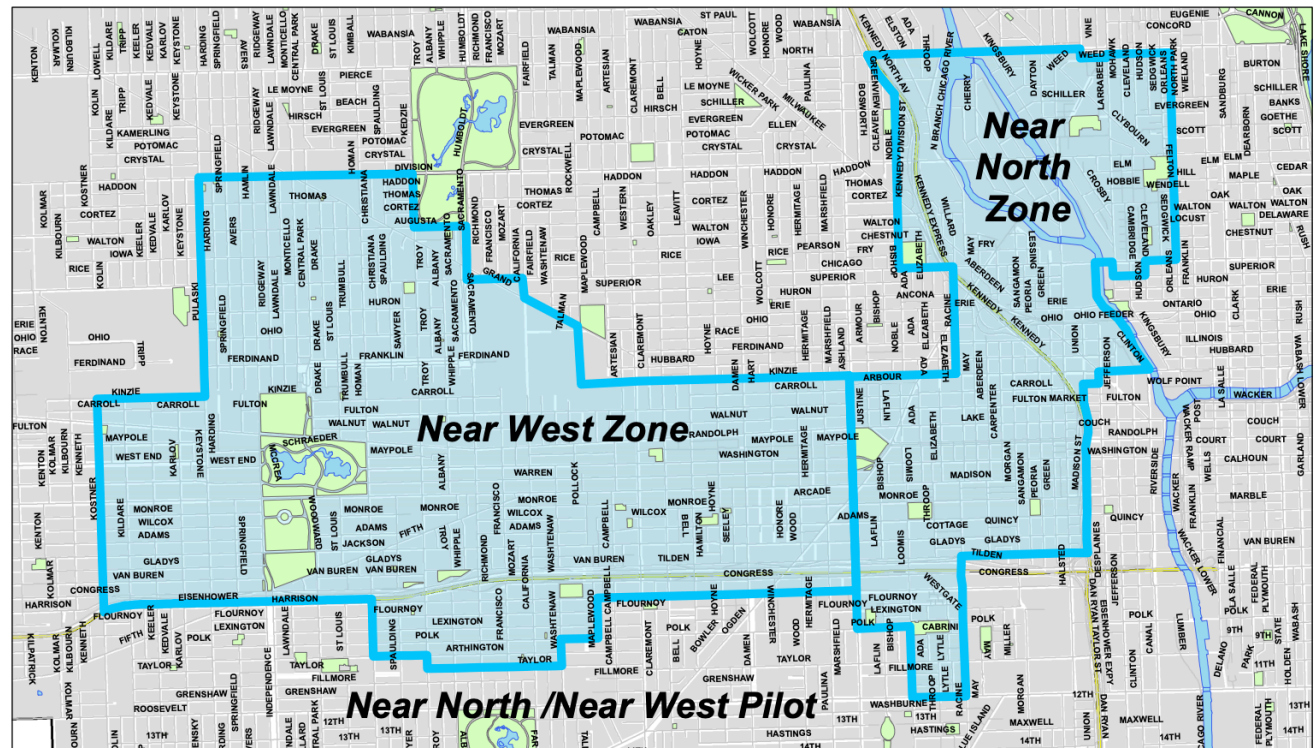


Source: Chicago Department of Housing.

**AFFORDABLE REQUIREMENTS ORDINANCE
ARO PILOT: MILWAUKEE CORRIDOR**



ARO PILOT : NEAR NORTH / NEAR WEST



Source: Chicago Department of Housing.

ARO Performance to Date & ARO Dashboard

In November 2019, the Department of Housing launched the Affordable Requirements Ordinance (ARO) Dashboard, available at Chicago.gov/ARO. The dashboard is designed to make affordable housing data more accessible and transparent to the public, and to inform future decision-making.

The dashboard allows users to access ARO project data by Chicago Community Area and project status, and catalogs data by off-site units, on-site units, bedroom sizes, and Area Median Income (AMI). Users can select to view data for the city as a whole or by community area, see Figure 3.3.

To-date, 1,046 affordable units have been built or are under construction, of which, 42 are off-site units. Of those units, 49.7 percent are 1 Bedrooms, followed by 26.3 percent Studio, and 24.0 percent 2 Bedroom. The majority of these units serve households at 50-60% AMI (87.4 percent) and 90-100% AMI (9.4 percent).

The Dashboard also provides data for in-lieu fee payments and indicates how much of that is appropriated to affordable housing developments and to the Low-Income Housing Trust Fund. Users can access data on in-lieu fee payments from developers by community area and by year, and can also search AHOF investments by Community Area or by multiple areas, see Figure 3.4.

As of October 2019, a total of \$123,490,000 has been collected from in-lieu fee payments. The top five community areas where these payments have been generated include Near North (\$37.8 M), Near West Side (\$23.78 M), West Town (\$13.66), Lake View (\$10.74 M), and Near South Side (\$10.6 M).

Please see Figure 3.3 for a map of AHOF Investments by community area.

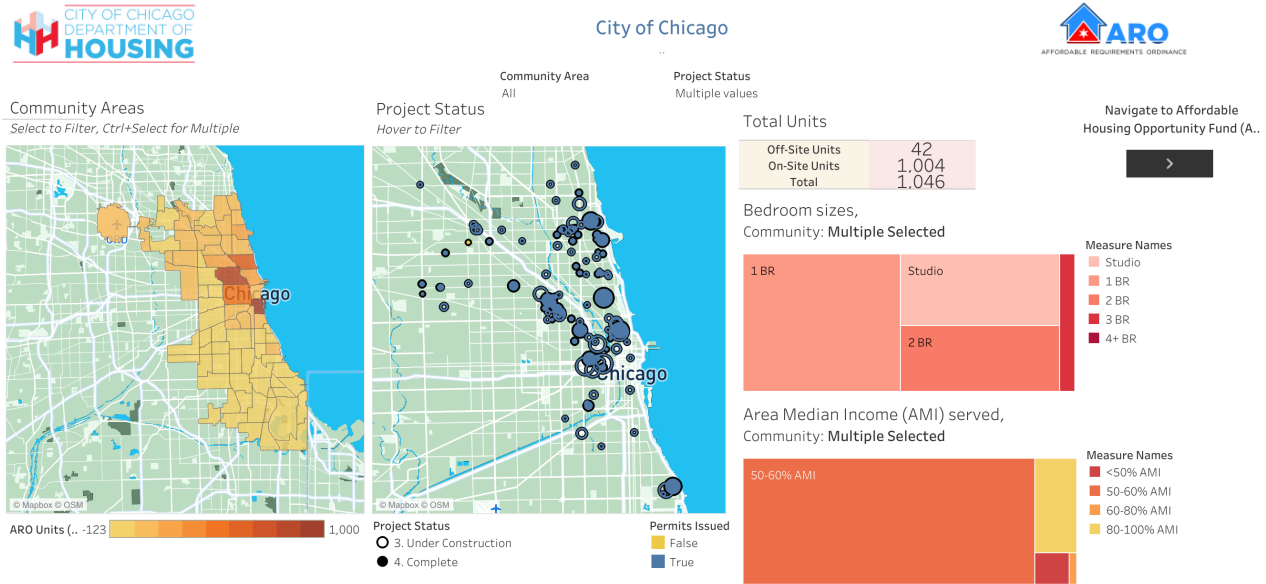
Pilots

DOH has also tracked data under the Pilot Areas. The Near North/Near West pilot areas were instituted beginning November of 2017. Since then, 23 projects have been proposed for these areas, comprising 1,645 potential affordable units. Of these, 15 projects with 1,348 affordable units have been approved by DOH, and six projects with 159 affordable units are under construction or completed.

The Milwaukee Corridor pilot area also began in November of 2017. Since then, developers have proposed 19 projects comprising 101 potential affordable units under this pilot area, with nine projects comprising 56 units approved by DOH and six projects comprising 36 affordable units under construction or completed.

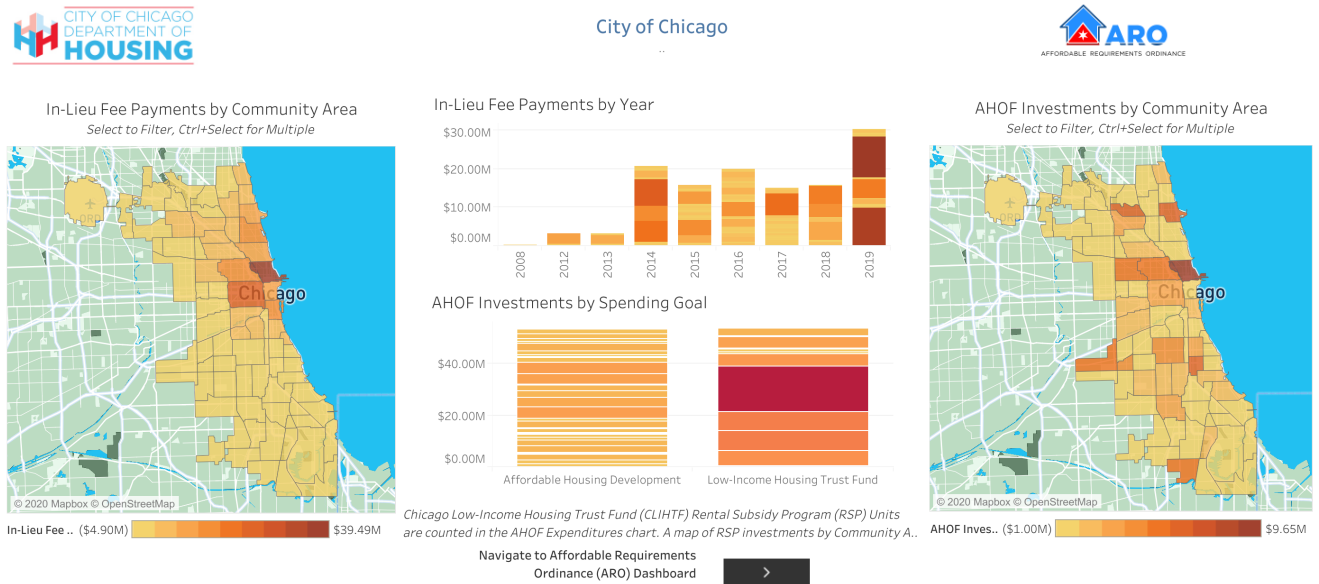
The Pilsen/Little Village pilot areas are more recent, taking effect only in January of 2019. While three projects comprising 47 potential affordable units have been proposed in these pilot areas, none have yet been approved by DOH or placed under construction.

Figure 3.3. Chicago ARO Dashboard



Source: Chicago Department of Housing.

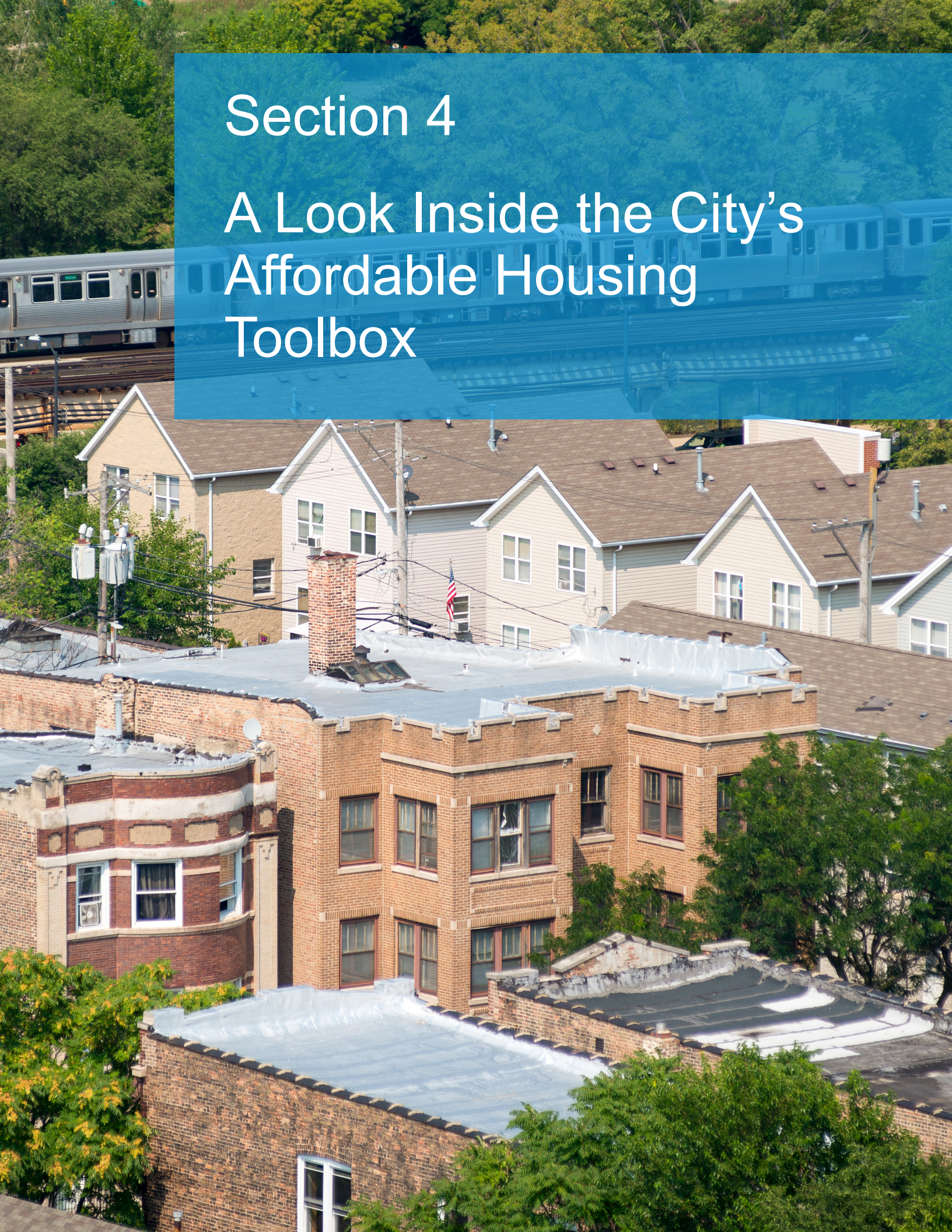
Figure 3.4. Affordable Housing Opportunity Fund (AHOF) Dashboard



Source: Chicago Department of Housing.

Section 4

A Look Inside the City's Affordable Housing Toolbox



One of DOH's chief responsibilities is to work with private developers to increase the supply of affordable housing in Chicago through a number of targeted programs. For more information on these programs, please visit the Department's website at chicago.gov/city/en/depts/doh.

It is important to note that the ARO is not the only affordable housing tool the City of Chicago has, nor is it intended to be a major production tool. By design and definition, inclusionary housing is a portion of a development's units. Other tools, such as Low-Income Housing Tax Credits, produce over 1,000 units in an average year, and programs such as the City's Low-Income Housing Trust Fund provide subsidies to more than 2,700 households at 30% of the Area Median Income and below, with an additional funding commitment to expand by another 500 households.

This section examines the range of tools the City uses to produce affordable housing beyond the ARO.

Affordable Housing Programs

The Affordable Housing Opportunity Fund (AHOF) is funded by in-lieu fees collected from developers subject to the ARO. Half of the funds are used for the construction, rehabilitation, or preservation of affordable housing, or may be used for other housing programs. To date, the funds have helped to create and preserve more than 2,700 units of affordable rental housing in 31 developments citywide.

The other half of the funds are distributed to the Chicago Low-Income Housing Trust Fund, which meets the needs of approximately 2,700 extremely low-income households through annual rent subsidies.

AHOF has also supported various affordable housing programs including:

- **Opportunity Investment Fund** – creates affordable units in targeted strong market areas by providing low-cost loans to purchasers of multi-family buildings in exchange for at least 20 percent of the units made affordable to tenants making up to 50 percent AMI.
- **Preservation of Existing Affordable Rental (PEAR) Program** – refinances private sector debt on residential properties with six or more units, ensuring at least 20 percent of the units will be affordable to tenants earning up to 80 percent AMI over a 30-year term.
- **Micro-Market Recovery Program** – assists in rebuilding distressed communities by reducing the cost of homeownership, creating communities of choice, and attracting new owners to vacant buildings on targeted neighborhood blocks.
- **Building Neighborhoods and Affordable Homes** – encourages homeownership in five targeted areas—Englewood Square, North Lawndale, South Lawndale, Humboldt Park/Garfield Park and Woodlawn—by providing up to \$60,000 in purchase price assistance to buyers of single-family homes constructed under the City Lots for Working Families (CL4WF) program.

Chicago Community Land Trust (CCLT) – a non-profit corporation founded in 2006 to address the increasingly limited supply of funding for affordable housing. The goal of the CCLT is to preserve the long-term affordability of homes created through City of Chicago programs. The CCLT works to maintain a permanent pool of homeownership opportunities for working families

Chicago Neighborhood Rebuild Pilot Program – the program’s goal is to invest \$6 million to acquire and rehab 50 vacant homes in Garfield Park, Humboldt Park, and Englewood through a partnership that will also provide transitional jobs and training opportunities for at-risk youth and ex-offenders.

City Lots for Working Families (CL4WF) – incentivizes homebuilders to purchase vacant, City-owned land for \$1 each to construct affordable single-family homes. Buyers must use the home as their primary residences for a minimum of five-years.

Low-Income Housing Trust Fund – assists residents living in poverty, with incomes not exceeding 30 percent of area median income, by providing secure, safe, sound and affordable housing. As of June 2019, 2,701 households benefit each year from rental subsidies.

- **Multi-year Affordability through Upfront Investment (MAUI)** –supplies interest free forgivable loans to replace up to fifty percent of a developer’s private first mortgage loan. The resulting savings are used to reduce the rents of very low-income tenants earning no more than 30% AMI.

Multi-Family Financial Assistance –encourages developers to apply for public funds and other subsidies to build and rehabilitate affordable rental properties in Chicago. Developer assistance programs include the federal Low-Income Housing Tax Credits (LIHTC), Tax Increment Financing (TIF), tax-exempt bonds and other state and local funds.

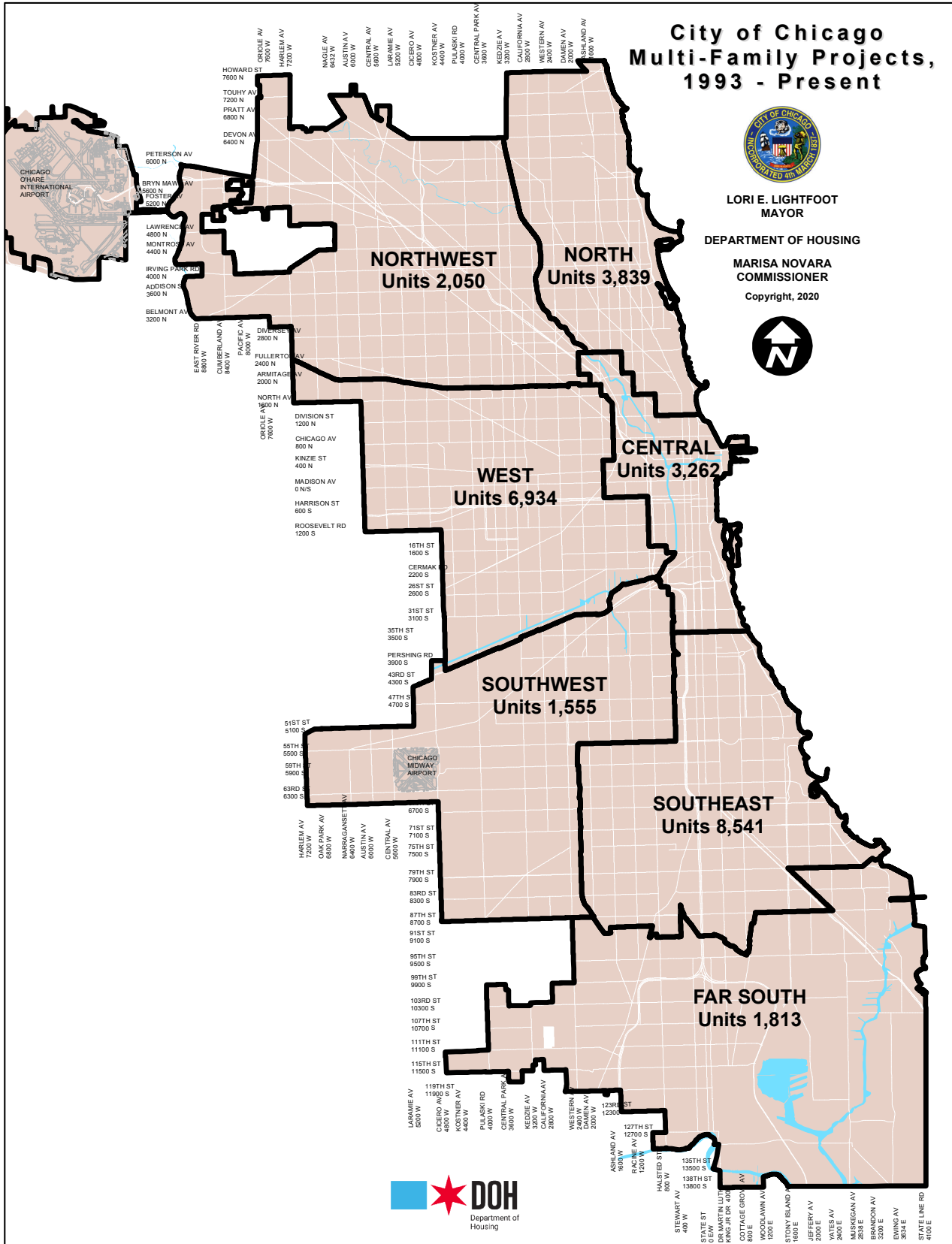
- **Low-Income Housing Tax Credits (LIHTC)** –a public-private partnership in which investors provide equity for low-income rental properties in exchange for a federal tax credit over several decades. This programs funds more than 60 percent of the City’s affordable housing resources.
- **Multi-Family TIF Purchase-Rehab Program** – provides TIF assistance ranging from 30 to 50% of the total cost needed to acquire and rehabilitate apartment buildings containing six or more units in portions of Humboldt Park, West Town, and North and South Lawndale communities. The amount of TIF assistance is determined by the percentage of apartments that are made available to households earning no more than 50% or area median income over a period of 15 years.

SRO Preservation Initiative –a partnership with other government and community-based organizations to create and preserve affordable housing for low and moderate income households through investment and various financial mechanisms.

Troubled Building Initiative (TBI) –a program through which the City has acted aggressively to improve and acquire vacant and abandoned structures and turn them into needed affordable housing. Collectively, these efforts have preserved more than 16,000 rental and for-sale units across the City.

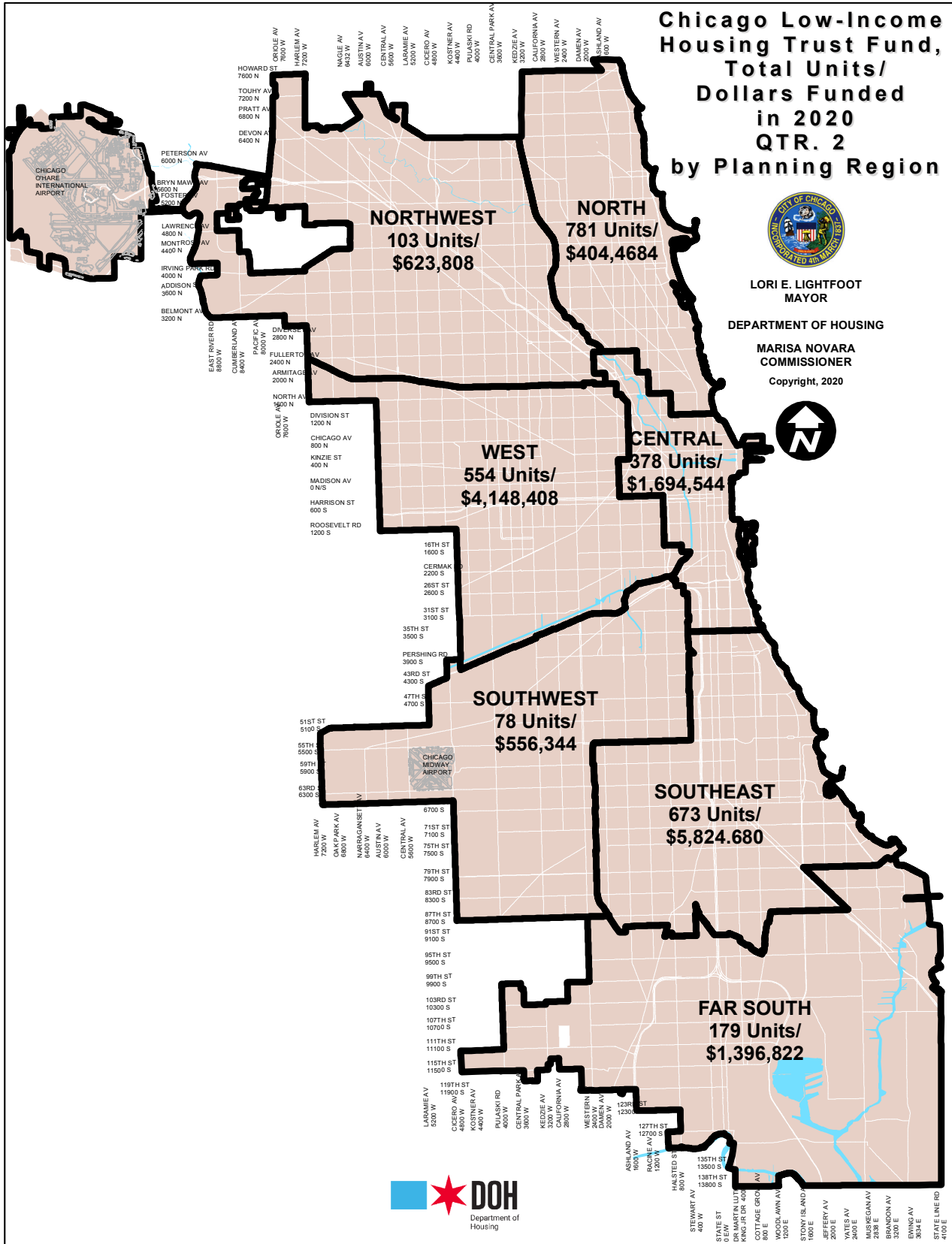


Figure 4.1. City of Chicago Multi-Family Projects, 1993 - Present



Source: Chicago Department of Housing, 2020.

Figure 4.2. Chicago Low-Income Housing Trust Fund, Total Units/Dollars Funded in 2020 QRT. 2



Source: Chicago Department of Housing, 2020.

Section 5

The Inclusionary Housing Landscape



A number of U.S. cities have developed various policies that focus on the production of affordable units in market rate developments. These strategies reveal a range of approaches and context to draw upon. This section details the current landscape for inclusionary zoning in select cities.

Boulder, CO – Updated in 2017, Boulder’s Inclusionary Housing Program requires all new residential development that adds housing units, regardless of size, be subject to the requirements of inclusionary housing. Developments of five or more units are required to provide 25% of the total units as permanently affordable housing. Of the 25%, 80% should be affordable to low- and moderate-income households and 20% to middle income households. Developments that are one to four dwelling units must include at least 20% of the total number of units as permanently affordable units.

Options for meeting this requirement include providing affordable units on-site, dedicating off-site newly constructed or existing units as permanently affordable, dedicating vacant land for affordable unit development or making a cash-in-lieu contribution to the Affordable Housing Fund (calculated by the city manager annually).

Cambridge, MA – Cambridge’s Inclusionary Housing Zoning Ordinance requires developments of 10 or more units to preserve 20% of the units for low- and moderate-income tenants (at 50 to 80% AMI for rental; and at no more than 100% AMI for ownership). In developments of 30,000 square feet or larger, the ordinance requires the creation of three-bedroom units. Rent for the affordable units are not to exceed 30% of household income. Since the creation of this program, over 1,100 units of affordable rental and ownership housing have been created or are under construction.

Image 5.1. The Duncan Apartments



Los Angeles, CA – The LA Transit Oriented Communities (TOC) Affordable Housing Incentive Program passed by voters in 2016. The program offers a package of incentives for creating affordable housing near bus and train stations, as well as guidelines for all housing developments within a half-mile radius of a major transit stop. The city is divided into four “tiers” based on proximity to transit service. Each tier carries its own affordability requirements, which provide three options for developers –make a large percentage of units affordable at 80% of AMI, a modest percentage at 60% of AMI, or a smaller percentage at 30% of AMI. TOC is one of the few inclusionary zoning policies in the country to have produced a significant number of units at 30% AMI.

San Francisco, CA – San Francisco’s Inclusionary Housing Program, known as the “Below-Market-Rate-Program,” requires all residential developments of 10 or more units pay an Affordable Housing Fee, or meet the inclusionary requirements. The current Affordable Housing Fee is \$199.50 per square foot, calculated at 20% of the project’s Gross Floor Area in projects with fewer than 25 units; and 30% for rental, 33% for ownership, in projects with 25 or more units. The set-aside requires 25% of residential development be affordable, however the developer is given the option to build the affordable units off-site. If the developer opts to meet its affordable obligation off-site, then a 30% set-aside is required. AMIs are set between 55% and 110%. The program currently has over 3,000 affordable units throughout the City of San Francisco.

Seattle, WA – Seattle’s Mandatory Housing Affordability (MHA) Program requires new commercial and multi-family residential developments contribute to affordable housing. Affordable housing percentages and price points are dependent on the project’s MHA area (low, medium, high), and the MHA zone suffix (M, M1, and M2). The MHA areas organize the city based on how hot the real estate market is. The areas that are gentrifying fast, or have already gentrified, are high areas. Areas with cooler markets and mostly single-family lots are low. In addition to these three MHA areas, the Downtown/South Lake Union area has its own unique zones for the downtown core. The second aspect is the MHA suffix, which vary based on the amount of the development capacity added through rezoning –larger zoning changes have higher affordable housing requirements.

Section 6

Stakeholder Engagement



The process to create the Inclusionary Housing Report began with the formation of an Inclusionary Housing Task Force in October of 2019. Task Force members consisted of 20 community and business leaders, three co-chairs, and three aldermanic co-chairs that met monthly beginning December 2019.

In addition to six Task Force meetings, four Task Force working groups met to discuss priority areas in greater detail, covering topics such as the types of units needed, models for off-site unit production, incentives, how affordable housing fits into the finances of market-rate development, and much more.

To garner feedback from the widest diversity of people and perspectives, six additional focus groups were co-hosted by DOH and community and business partners. Two community-centered groups were held with residents and community advocates in gentrifying neighborhoods, including Albany Park, Belmont Cragin, Irving Park, Little Village, Logan Square, McKinley Park, North Park, Pilsen, Rogers Park, Roseland, Uptown, Washington Park, and Woodlawn. Industry-centered groups were hosted by the Chicago Association of Realtors, Chicagoland Apartment Association, the Homebuilders Association, and the Neighborhood Building Owners Association. DOH also held a separate session focused on accessibility issues with Access Living and the Mayor’s Office for People with Disabilities.



Key Findings

The following are common key findings from outreach to-date.

- Many community advocates voiced concerns that the current Area Median Income (AMI) level of 60% AMI is too high. Overall, residents and housing advocates emphasize the need to **lower AMIs to serve Chicagoans who need affordable homes the most.**
- Similarly to AMIs, a number of participants expressed the need to address the mismatch between the number of bedrooms being produced by the ARO and household sizes in low-income communities. There was overwhelming desire for the ARO to **deliver more family-size units for people who would benefit from affordable housing.**
- Feedback from housing advocates, non-profit developers, and market-rate developers indicate a **reduced prioritization of integrating affordable units at the building level, and consideration for more integration at the level of the community.** In other words, it was more important that affordable units be built in opportunity areas - even if in separate buildings - than have those units be integrated into market-rate buildings.
- There is mutual agreement among participants in preserving existing naturally occurring affordable housing in smaller buildings. Community advocates indicated that **many families who could be served by ARO units may prefer to live in smaller buildings, such as two- to four-flats with a yard, than in a high- or mid-rise building.**
- There were differences in opinion regarding the distance of off-site units from the triggering market-rate development. For some, **locating ARO units as near as possible to the triggering project is crucial, particularly in gentrifying areas. For others, producing off-site units in any community across the city where there is shortage of affordable housing is a priority.**
- Creating accessible units was a priority among participants. Advocates for people with disabilities consulted by DOH recommend early engagement in the design process with developers to **integrate universal design in ARO units.** Equally important was to **prioritize ARO units in transit-rich neighborhoods** rather than building off-site units in areas that less accessible.
- Many Task Force members said that market-rate developers are not always well equipped to manage legally restricted affordable units. To address this, participants recommended a **partnership approach between market-rate and nonprofit developers who specialize in managing affordable housing to deliver the ARO units.**
- Many who work in market-rate development believe that the environment for new construction is challenging for a variety of reasons, including overall economic conditions and property taxes, and that **incentives are needed to ensure that residential development can continue alongside strong ARO requirements.**
- Developers indicated they needed **more predictability from the ARO, but also flexibility to meet ARO requirements** in different development contexts.

Section 7

Detailed Feedback and Staff Recommendations



This section proposes staff recommendations on ways to enhance inclusionary housing policies in the City of Chicago. Based on key findings from stakeholder engagement, the recommendations are cataloged by key topic area and are accompanied with detailed feedback from Task Force meetings and focus group discussions. The staff recommendations are organized by three main areas: Building a More Inclusionary Chicago, Making ARO Requirements Work for Every Community, and Making it Work.

Building a More Inclusionary Chicago

Area Median Incomes (AMI)

Although all of the units produced by the ARO are considered “affordable” in the sense that their prices are legally restricted at or below median income, the levels at which their prices are set vary significantly. Most rental units under the ARO are restricted to a price that is affordable to people making 60% of the Area Median Income (\$38,220 for a single person or \$54,600 for a family of four in 2020), but can be up to 100% of the Area Median Income (\$63,700 for a single person or \$91,000 for a family of four). Owner-occupied units are priced to be affordable to people making 100% of the Area Median Income.

A consistent concern brought up by community advocates is that these levels of affordability are themselves exclusionary. There is data to support this concern. According to a Metropolitan Planning Council (MPC) analysis of American Community Survey data, the median household income of Black Chicagoans is \$27,713, while the median household income of Latinx Chicagoans is \$40,700. Adjusting for average household sizes, MPC estimated that more than six in 10 Black Chicago households, and more than five in 10 Latinx Chicago households, could not afford an ARO rental unit.

These patterns in many cases are exacerbated in neighborhoods where ARO units ought to counter displacement of longtime residents due to rising real estate prices and gentrification. Median Latinx household income in Logan Square, Pilsen, and Humboldt Park, for example, is substantially below median Latinx household income in Chicago as a whole, suggesting that the vast majority of these families could not afford the legally restricted affordable units produced by the ARO.

Moreover, the Institute for Housing Studies (IHS) at DePaul has shown that the greatest “gap” in housing affordability between demand and supply is at the lowest incomes. It found that 78% of rent-burdened households in Chicago are below 50% AMI, and over half are below 30% AMI. (Although IHS uses a somewhat different definition of “AMI” than the federal definition used by the City of Chicago, it is close enough to be usable for this point).

Of course, it is important to keep in mind that the ARO is not the only affordable housing production tool the City of Chicago has, and other tools provide affordable housing at lower AMIs than the ARO. The Chicago Low Income Housing Trust Fund, for example, supported over 2,700 households at under 30% AMI in 2019 and has funding to increase that number by 500 households starting in 2020. In addition, the City’s 2019 introduction of “income-averaging” to Low Income Housing Tax Credit (LIHTC) developments means that many may offer rental units at lower AMIs. Finally, over 60,000 or 96% of the households supported by the Chicago Housing Authority have incomes under 50% AMI, and over 52,000 or 83% have incomes of under 30% AMI.

Moreover, the Task Force heard from developers and researchers about the challenge of accommodating very low-income units in market rate developments. To see why, imagine a building with market rate one-bedroom units that rent for \$2,000 per month. An affordable unit at 60% AMI would rent for \$1,003 per month in 2019, leading to a revenue loss of approximately \$1,000 per month per unit. At 30% AMI, however, the unit’s rent would be restricted to \$502, leading to a 50% greater revenue loss of nearly \$1,500 per month per unit. In this scenario, two units at 30% AMI cause the same amount of revenue loss as three units at 60% AMI.

Perhaps because of this, most inclusionary housing policies around the country require relatively high AMI levels. While San Francisco, for example, requires 20% or more of units be “affordable,” those units’ rents are set at up to 110% of AMI, and none are below 55% AMI.

Still, if the purpose of the ARO is to be an inclusionary program, Chicagoans who require affordable housing, housing advocates, and available data suggest that simply providing 60% AMI units is not sufficient.

One way to accomplish this goal while also recognizing the additional revenue loss of lower-income units is “income averaging.” In this approach, property managers would be required to maintain a certain average AMI in their legally restricted units, while being encouraged to rent to households at a range of incomes, perhaps from 30% AMI to 80% AMI. This is the general approach the City is now encouraging in LIHTC developments in Chicago. While its flexibility may be an advantage, DOH staff have also raised concerns about the complexity of administering and ensuring compliance with this program, both on the part of staff and property managers.

A second way to accomplish this would be to create a sliding scale that trades off between number of units and AMI levels. Los Angeles’ “Transit Oriented Communities” (TOC) ordinance does exactly this. Under TOC, developers in some areas may choose between providing 8% of their units at 30% AMI, 11% at 50% AMI, or 20% at 80% AMI. In 2019, 926 or 52% of the affordable units approved in TOC developments were at 30% AMI.

Recommendation

The ARO should increase production of units priced at AMIs that are more accessible to lower-income Black and Latinx Chicagoans. The most promising approach seems to be the LA Transit Oriented Communities model, in which developments can trade off between number of units and AMI levels based on feedback from the developer, community, and DOH staff.

Bedrooms

Under the current ARO, developers are in most cases required to provide affordable units of the same type and size as the market units they are building. In the last decade, market rate construction has tilted heavily towards studios and one-bedroom units, thus ARO affordable housing production has tilted accordingly. Over 75% of ARO affordable units under construction or completed are studios and one-bedroom units. Less than 5% are three-bedroom units or larger.

Similar to the issue of AMIs, community advocates have also brought up bedroom count as an exclusionary outcome of the ARO based on the mismatch between the types of units produced and the household sizes of low income Chicagoans, and particularly Black and Latinx Chicagoans. Indeed, the Metropolitan Planning Council study cited above found an average Black household size of 2.7 in Chicago, and an average Latinx household size of 3.7.

The justification for the current ARO policy is that affordable units should be in every way indistinguishable from market-rate units in the same building, from location in the building to finishes to sizes. While it is crucial to ensure that affordable units are not designed in a way that leads to lower quality of life or stigma for their tenants, it is also crucial that the ARO deliver units that are appropriate for the people affordable housing is meant to serve.

Larger units, like lower AMI units, also lead to a greater loss of revenue for property owners. Developers generally agreed that this is because while market-rate larger-sized units command much higher prices than smaller units, larger affordable units are allowed to rent for only modestly more than smaller units. For example, a development might have market-rate one-bedroom units that rent for \$2,400, while two-bedrooms rent for \$3,400, a difference of \$1,000 or 42%. However, allowable rents at 60% AMI increase from \$1,003 to \$1,203, an increase of \$200 or just under 20%. In other words, as units get larger, the lost revenue grows disproportionately.

As with AMI, one way to produce more family-size units is to allow a sliding scale of unit count and unit sizes. In fact, the Near North-Near West and Pilsen-Little Village Pilots do just this. For example, under the Pilots, a two-bedroom unit counts as 1.25 one-bedroom units, and a three-bedroom unit counts as 1.5 one-bedroom units. A similar practice could be expanded citywide.

Some developers have also indicated that integrating family-size units into buildings whose market rate units are predominantly studios and one-bedrooms may present logistical challenges as unit configurations are typically aligned vertically to allow for, for instance, one plumbing stack to serve all bathrooms and kitchens in the same location. In addition, housing advocates have suggested that many families who could be served by ARO units may prefer to live in smaller buildings, such as two- to four-flats, than in high- or mid-rise apartment buildings. This could be accomplished by combining a sliding scale family-size unit incentive with off-site options. The off-site options will be explored further below.

Recommendation

Extend the incentive for family-sized units that exists in the Near North-Near West and Pilsen-Little Village Pilots citywide. Encourage the use of off-site options to deliver family-sized units.

Where and How Units Are Produced

On-Site. Outside of the Pilot Areas, developers are currently required to build 25% of their ARO units on site. The rest can be provided off-site, or in a per-unit “in-lieu” fee. In Pilot Areas, no in-lieu fee may be provided, and all units must be built on- or off-site.

Stakeholders consulted during the Task Force process expressed a wide variety of perspectives about priorities and tradeoffs between on-site, off-site, and in-lieu options. For some advocates, maximizing on-site affordable units is crucial. Arguments in favor of this approach include that the city must promote inclusion and integration at the level of the building; that new market-rate construction may have the effect of increasing gentrification and displacement, and so it is important to offset that effect by including affordable units as nearby as possible; and that placing the affordable units away from the market-rate units risks recreating concentrations of poverty.

Others raised issues with prioritizing on-site units. For developers, on-site units can be the most costly option, as they are often the most expensive to produce and reduce the long-term revenue of their developments. In some cases, developers suggested, requiring on-site units instead of off-site or in-lieu could be the difference between a project that gets built and one that does not. In addition, market-rate developers often have little experience leasing and managing legally restricted affordable units, and may do so inefficiently as a result.

Some housing advocates and affordable housing developers also raised issues with on-site units. Many agreed that market-rate developers are not always well equipped to manage legally restricted affordable units, and that mission-driven developers who specialize in affordable housing may be able to more efficiently meet technical compliance requirements, as well as provide more cultural competency for their tenants. In addition, some advocates felt that integration at the level of the building was less important than integration at the level of the community. Indeed, some advocates reported that tenants they work with would prefer to live in a smaller-scale typology, such as a three-flat with a yard, than in a new construction mid-rise.

Off-Site. This is suggestive of an off-site approach. While off-site units are an option under the current ARO, relatively few developers have chosen to build them, with less than 50 affordable off-site units completed or under construction as of the beginning of 2020. However, many members of the Task Force expressed an interest in exploring ways to make off-site solutions work. In particular, these members were interested in the potential of off-site arrangements to produce more affordable units, or units with lower AMIs or more bedrooms. They were also interested in the potential of off-site units to preserve existing “naturally occurring affordable housing” in the form of smaller two- to four-unit buildings.

Many Task Force members were interested in pursuing a “partnership” approach. In this model, the market-rate developer would work with another entity, likely a nonprofit developer that specializes in managing affordable housing, to deliver the affordable ARO units. This approach itself could take several forms. The market-rate developer could purchase one or more properties, perform necessary rehabs, and turn them over to an affordable property manager. The market-rate developer could also contribute a sum of money to an affordable developer that makes possible construction or rehabilitation of a property by the affordable developer. The market-rate developer could provide an up-front cash payment to an affordable property manager as an up-front subsidy securing long-term affordability. These or other arrangements could also incorporate the use of non-competitive 4% Low Income Housing Tax Credits (LIHTC).

In addition, each of these approaches could be done in partnership with the Chicago Community Land Trust (CCLT) for owner-occupied affordable units. Using the ARO to strengthen the CCLT was a high priority for many housing advocates on the Task Force. One limitation is that the CCLT currently does not have the ability to accommodate affordable rental units, either as a purpose-built rental building or as part of an owner-occupied structure like a three-flat. However, there are models nationally for rental buildings in community land trusts, and this may be an area for further development. Currently, off-site options are constrained by a number

of requirements. One is simply the development timeline; off-site arrangements generally must be finalized before permits can be released for the market-rate project, and delays in securing approved off-site plans can add cost to a development. While the importance of ensuring delivery of promised off-site units means that DOH would not consider extending this timeline to the period after permits are issued, this issue could be mitigated by officially allowing developers to “bank” off-site units before they have a specific market-rate project to apply them to.

A very significant constraint, and one with important policy and equity implications, is distance from the market-rate development that has triggered the ARO. Currently, most off-site units must be within two miles of the triggering project and in a high-income Census tract. Some units provided in Pilot Areas may be further than two miles away if they are still within the same Pilot Area.

Task Force members and other stakeholders consulted by DOH took different positions regarding the distance off-site units from the triggering market-rate development. For some, locating affordable units as near as possible is crucial to offset the possible effects of new high-end development, particularly in gentrifying areas. For others, given the many neighborhoods across the city with a shortage of both legally restricted and naturally occurring affordable housing, producing off-site units in any of these communities is worthwhile, regardless of the location of the triggering development. Many of these stakeholders also believed, however, that given the cost advantage to placing off-site units farther away from developments in the highest-cost neighborhoods, it may make sense to increase requirements there. For their part, market-rate developers expressed that flexibility in site selection would be extremely valuable, not only for potential cost savings but because, in built-up areas, it can be very difficult to find appropriate locations for off-site units within the distance prescribed by the current ARO.

Although there are tradeoffs and valid arguments for a variety of approaches, the ARO’s inclusionary mission and its link to developments that are seen as harbingers of gentrification in transitional areas seem to push for both a broader off-site lens and a more focused approach, depending on the context of the development. Meanwhile, feedback from community-based housing advocates, affordable developers, and market-rate developers seemed to indicate a somewhat reduced prioritization of integrating affordable units at the building level, and a refocus to the community level, as well as more flexibility in considering the sorts of housing Chicagoans who could benefit from ARO affordable units would prefer to live in.

Recommendation

The ARO should take two approaches to where affordable units are produced. In gentrifying neighborhoods, the ARO should prioritize generating units close to the triggering market-rate development to stem displacement. In stable, high-income neighborhoods, where ongoing displacement is less pronounced, the ARO should allow greater flexibility in delivering affordable units in areas citywide that lack legally restricted and naturally occurring affordable housing. In each of these, off-site units whose triggering project is in a TOD zone should also be built in a TOD zone. In addition, the ARO should clarify and encourage ways of delivering off-site units through partnerships with affordable housing developers and the CCLT.

In-Lieu Fees

Outside of Pilot Areas, the current ARO usually allows market-rate developers to pay an “in-lieu” fee for up to 75% of their required affordable units. The amount of this fee depends on a number of factors, most importantly the location of the triggering project. In downtown areas, the fee is \$185,376 for rental developments and \$238,340 for for-sale developments that pay an in-lieu fee for 100% of their required units. In high-income areas, the fee is \$132,411, or \$105,929 for developments that place units with the Chicago Housing Authority on site. In lower- and moderate-income areas, the fee is \$52,964. These fees are indexed to inflation and adjusted annually.

In the Near North-Near West and Milwaukee Corridor Pilot Areas, in-lieu fees are not allowed. In the Pilsen-Little Village Pilot Areas, in-lieu fees are allowed to cover up to 50% of the required affordable units at \$182,411 in Pilsen and \$102,964 in Little Village.

For developers, in-lieu fees are often a simpler and therefore preferred option for meeting ARO requirements. At the same time, in-lieu fees fund important affordable housing programs across the city—from homeowner repair programs to direct rental assistance to gap financing for new and rehabbed affordable apartment buildings—through the Affordable Housing Opportunity Fund. These investments go to neighborhoods all over Chicago, including neighborhoods that have been the target of disinvestment from private market actors for generations. Maintaining revenue for those investments is crucial.

Many Task Force members pointed out that relying on in-lieu fees leaves the Affordable Housing Opportunity Fund vulnerable to market fluctuations, and undermines the inclusionary mission of the ARO when funds raised in lieu of inclusionary units are used for purposes other than delivering affordable units in high-cost, low-affordability neighborhoods. In order to ensure steady and even enhanced funding for affordable housing in every part of the city, alternative sources of funding must be identified.

One option discussed in the Task Force is a small affordable housing impact fee levied on a per square foot basis on all new development that is not covered by the ARO. In addition to raising additional income, this measure could “grow the base” supporting the provision of affordable housing in Chicago, recognizing that the construction of office, industrial, hotel, and other commercial buildings also contribute to housing need and market values. However, wider economic conditions, including the ongoing economic fallout from COVID-19, should be considered in any new policy.

Recommendation

Changes to the ARO should take place alongside new revenue sources for affordable housing. Any such revenue should be appropriately scaled to avoid placing any additional financial burden on disinvested communities.

Accessibility

Accessibility is a crucial priority for the ARO, because people with disabilities and low incomes who wish to stay in or move to higher-cost neighborhoods face a double challenge of identifying a unit with an appropriate physical layout, as well as a price they can afford. Because unsubsidized or “naturally occurring” affordable housing tends to be in older buildings that are not physically accessible, this can pose a major barrier.

Currently, new residential elevator buildings in Chicago are required to provide 80% of their units up to a “Type B” level of accessibility, with 20% of units required at a higher “Type A” level of accessibility. While not all people with disabilities require Type A units, they do offer important additional features such as roll-in showers, lower cabinets, and more space for maneuverability in a mobility device. Advocates and the Mayor’s Office for People with Disabilities (MOPD) have suggested that in new construction, designers have found ways to reach the higher Type A level of accessibility without significant additional costs. Increasing the number of these units could have a significant positive effect on the ability of people with disabilities to find appropriate affordable housing. In new construction housing, this is unlikely to be a major problem. Where off-site housing is provided through the preservation of older buildings, however, it may pose a complication. While some older buildings can be made accessible through rehabilitation, in many it is either not practical or virtually impossible, especially on upper floors.

Some advocates have also suggested moving to Uniform Federal Accessibility Standards (UFAS), an alternative benchmark for a greater level of accessibility than Type B. MOPD staff expressed some concerns about knowledge of these standards on the part of builders.

In addition, given the very limited number of accessible and affordable homes in high-cost neighborhoods, advocates and MOPD were supportive of some form of preferential leasing policy that would match a certain number of accessible and affordable ARO units with people who need them.

Recommendation

The ARO should meaningfully increase the production of Type A or similar accessible units from the current requirement of 20% of newly constructed units. The ARO should also require preferential leasing for people with disabilities for at least a portion of these units.

Leasing

Currently, ARO units are marketed and leased by the property managers of each individual building, who are required to follow the same procedures as they would for market-rate units, with the exception of the income certification.

Tenant advocates have noted a few issues with this. For one, it is difficult for tenants looking for an ARO unit to know where available units are, or whether available units have the features (bedroom count and accessibility, for example) that they need. Second, even if a tenant can identify units, they would need to contact each property separately to apply, which can be burdensome given the long odds of approval for any given affordable unit. Finally, some tenants have reported facing discrimination when they apply for ARO units, suggesting that some managers may be unfairly and illegally favoring income-qualified tenants who are younger or white. Seemingly neutral policies such as applying a credit score cut-off equally across all tenants negatively impacts prospective tenants of color given that people of color have been disproportionate targets of predatory lending, fines and fees and have often been denied access to credit.

In addition, market-rate developers and property managers have indicated that leasing can be difficult for them, especially if they have not previously managed legally income-restricted units. The process often requires hiring additional staff, incurring extra costs, and still may not be as efficient as organizations that specialize in leasing affordable housing.

As a result, most members of both groups supported a centralized leasing and marketing system for ARO units. In this proposal, the City or a delegate agency would manage marketing and leasing for all ARO affordable units. Available units could also be displayed on an online portal.

Recommendation

The ARO should create a centralized leasing and marketing system to more efficiently, fairly, and transparently fill vacancies in affordable ARO units.

Making ARO Requirements Work for Every Community

The current ARO uses geography to vary its requirements substantially from place to place. The main ways this is accomplished is through the Pilot Areas established in the Near West-Near North areas adjacent to the Loop; the Milwaukee Corridor; and the Pilsen-Little Village area. In addition, in-lieu fees vary based on location in three tiers: the downtown area, high-income areas, and low- to moderate-income areas.

These differences are important, as they recognize that market conditions can vary substantially from place to place within Chicago. At the same time, all of the Pilots except for the Pilsen-Little Village Pilots are scheduled to expire at the end of 2020. Replacing the Pilots with predictable, stable requirements that also respond to market shifts over time is a priority.

In general, stakeholders consulted agreed that development can meet higher requirements in higher-cost markets. The 2015 ARO's downtown-high income-low/moderate-income typology reflects these differences with varying in-lieu fees. The Pilots added a higher total set-aside percentage and stricter off-site standards as well.

A consideration in making these determinations is that increasing complexity may reflect an attempt to better tailor ARO rules to the many unique market conditions across the city, but also can reduce transparency and predictability on the part of both community members and developers. In addition, data at very small levels of geography can be quite noisy over time, producing unpredictable results from year to year. This can be somewhat smoothed by using larger geographies and averaging data over several years.

Recommendation

Retain the high-income, low/moderate-income, and downtown categories, along with the “gentrifying areas” category discussed in the “off site” section above. Consider a “significant redevelopment areas” category for geographies where, like in the Near North/Near West Pilot, development is most intense.

Accountability and Reporting

Task Force members agreed that improved reporting is crucial to the ARO's accountability as a successful inclusionary policy. In fall of 2019, DOH took a major step forward on this front with the ARO dashboard (available at chicago.gov/aro), which shows completed and proposed projects by location, bedroom count, and number of units, as well as in-lieu fee expenditures through AHOF by Community Area.

However, there is more work to do. Many Task Force members felt it was particularly important to collect and report on the demographics of ARO tenants to evaluate the program's effectiveness in promoting racial equity.

Recommendation

The ARO should enhance its reporting to include anonymous tenant demographic information to allow for better evaluation of its success in its inclusionary mission and racial equity.



Making it Work

Most Task Force members and other stakeholders consulted by DOH believed that the ARO should make it easier for developers to offer affordable units by offsetting some of that lost revenue in other ways. These offsets can also make it easier to provide units with deeper subsidies or larger units.

Market rate developers underscored that these incentives need to be of sufficient value to provide a significant offset to revenue lost with affordable units. Two types of incentives stood out as having the strongest effect: property tax incentives and density and bulk bonuses.

Property Taxes

According to many developers, a typical development being planned in 2020 might budget for property tax payments of as much as 16% or more of its net operating income. In comparison, all other operational expenses (not including debt service) may top out at 20% of net operating income. But while property tax levels are a key cost driver for development, the City of Chicago has little ability to unilaterally offer tax relief targeted at affordability because, in Illinois, the property tax system is administered and governed by the county and state levels of government.

However, the City could play a collaborative role. At the county level, the City can work with the Cook County Assessor's Office to ensure that development with ARO affordable units are automatically recognized as legally restricted affordable, and that restriction is reflected on the assessment of the property. At the state level, the City can continue to support bills that would create statewide property tax incentives for new construction and substantially rehabilitated residential buildings to include a meaningful number of legally restricted affordable units.

Bulk and Density

The City has much more power to offer density and bulk bonuses because it directly regulates this through the zoning code. In this context, "density" refers to the number of units allowed on a property, and "bulk" to the size of building allowed. These sorts of bonuses are among the most common incentives provided by inclusionary housing ordinances around the country. The ARO currently does include a bulk bonus, but it applies only to very constrained circumstances: The market rate project must be in a TOD area and be zoned in a B, C, or D zone with a "-3" density suffix. The ARO does not currently offer a density bonus.

Many market-rate developers expressed that in many instances, meaningful density and bulk bonuses could make it possible to finance developments with a number of affordable units or depth of affordability that might not otherwise be possible. Many affordable housing advocates suggested that such a tradeoff could be a net positive for the mission of an inclusionary housing ordinance. A counterargument might be that developers subject to the ARO have already likely received a zoning change that increases the amount of density and bulk allowed on their site, and that increased bulk and density might create issues related to congestion.

Some developers also expressed that the time and uncertainty involved in applying for a zoning change deters an increasing number from doing so, choosing instead to build within existing zoning. Without a zoning change, however (and without City land or financial assistance), the City does not have the ability to require the developer provide legally restricted affordable housing under Illinois law. As a result, these developments are not covered by the ARO and do not produce affordable units, an outcome that is satisfying neither to the developers nor to affordable housing advocates.

One way to address this issue suggested by some Task Force members is to create an ARO density bonus that developers can opt into if they do not receive a zoning change. In this system, a developer without a zoning change could choose to provide legally restricted affordable units in exchange for a density and bulk bonus on top of their current zoning allowance.

Other Incentives

Although less powerful than property taxes and bulk and density incentives, Task Force members suggested that a number of other incentives could nevertheless be worth offering.

One is waiving the zoning requirement that buildings in B- and C- districts provide ground-floor retail space. Market studies suggest that Chicago is already over-retailed, and that space could often generate more revenue if it were allowed to be used for residential purposes. This would need to be done in conjunction with citywide planning around commercial corridors.

Another is parking restrictions. Providing on-site parking, especially through structured garages, adds substantial cost to residential developments. Although many ARO projects are in TOD areas and can take advantage of reductions in required parking already, the ARO could expand these benefits to other locations.

Predictability

A major concern about the current operation of the ARO from both developers and DOH staff is the unpredictability of the requirements, owing to a variety of factors, including the complexity and relative newness of off-site options and the ability of DOH to issue waivers for some requirements. Task Force members pointed to ways that even sophisticated inclusionary zoning policies with different options, incentives, and geographic targeting could be made transparent and predictable, including with tables of allowable options and incentives for meeting affordability requirements under the ordinance.

Recommendation

The ARO should expand on its existing density and bulk bonuses while maintaining good planning principles that acknowledge the neighborhood context of the development. In addition, the City should consider offering an “opt-in” density bonus in exchange for providing affordable units for developments that don’t receive a zoning change. The City should also work with Illinois and Cook County officials to improve the favorability of tax treatment for affordable housing, including affordable housing produced by inclusionary housing policies like the ARO. Both incentives and requirements should be presented in ways that make clear what proposals will be approved without extensive negotiations.

Section 8

Next Steps



The framework in this report sets a direction to advance inclusionary zoning policies in the City of Chicago. This framework presents staff recommended changes to the City's ARO and inclusionary housing policies based on staff research and analysis, and discussions from Inclusionary Housing Task Force meetings and six focus groups. DOH expects these recommendations to inform not only the revised ARO, but also other inclusionary housing policies, research products, and data sharing.

Following publication of this report, it will be posted for public comment and the Committee on Housing and Real Estate will hold a subject matter hearing. With those combined inputs, DOH staff will craft a revised ordinance for introduction to City Council consideration and possible adoption.

Chicago Department of Housing
Marisa Novara, Commissioner
City Hall, Room 1000
121 N. LaSalle St.
Chicago, IL. 60602

