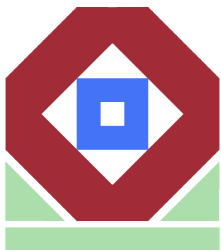


Audit Report

Inclusionary Housing: Housing Bureau should improve Program goals, support for property owners, and monitoring to ensure Program helps address housing crisis



May 2024



**Portland
City Auditor**
Audit Services

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Summary

With the launch of the Inclusionary Housing Program in 2017, the City began requiring developers to make some apartments and condominiums in new residential buildings affordable to moderate-income households. The Program is one way the City is trying to address Portland's shortage of affordable housing.

The Program is administered by the Portland Housing Bureau. Its objective and goals focus on the development of Inclusionary Housing units. Once built, property owners are responsible for marketing the affordable apartments, screening applicants against Program requirements, charging affordable rent, and recertifying tenants' income. Inclusionary Housing units must remain affordable for 99 years from the time the building opens. These responsibilities transfer to new owners if the building is sold during this time.

The property development side of the Program, including the impact of Inclusionary Housing requirements and incentives, has received significant attention, particularly from developers and the City. Less attention has been paid to whether the housing is being used as intended and addresses Portland's housing needs. This audit explored if the Program was meeting its goals, and if the Housing Bureau was prepared to identify when property owners are out of compliance with Program requirements.

We found the Program's goals lacked essential elements to determine if they were met. Instead, we evaluated the Program's outcomes as they relate to unit production, location, and population served. We found the Program has helped create housing for renters earning 60% or 80% or less of the area's Median Family Income (MFI)—the middle of the income range for all families in the area, and much of it is located in high opportunity neighborhoods. However, the housing is not intended for individuals and families facing the greatest disparities.

We also found confusion about Program requirements related to tenant eligibility among property owners who are responsible for renting the affordable apartments, and that the Bureau had not allocated sufficient resources to educate and support them. The Bureau had also not dedicated resources to monitor property owner compliance so it can effectively identify and respond when there are problems. These conditions create a risk that housing developed through the Program may not help meet Portland's affordable housing needs as intended.

To address these issues, and ensure that the Program is benefitting the intended population, we recommend the Housing Bureau improve its goals for the Inclusionary Housing Program, do more to help property owners understand their responsibilities, and strengthen monitoring so the Bureau can effectively identify and respond to non-compliance.

Background

City adopted Inclusionary Housing as a tool to help address Portland's housing crisis

In October 2015, Portland City Council declared a one-year housing state of emergency that subsequent Councils have extended to 2025. Portland's housing stock had not kept pace with steady population growth since 2000, leaving the city underbuilt by approximately 23,000 units. The limited housing supply made existing housing more expensive. According to Bureau managers, rents have increased faster than incomes, creating a severe lack of housing for low- and moderate-income people. Experts agree that the primary contributor to homelessness is a lack of affordable housing.

Portland's Inclusionary Housing Program went into effect in early 2017. The Housing Bureau administers the Program. The objective is to contribute to the City's goal of creating at least 23,000 new housing units for low- and moderate-income households by integrating affordable housing within market-rate residential buildings that would not otherwise include it. The City established four goals for the Program:

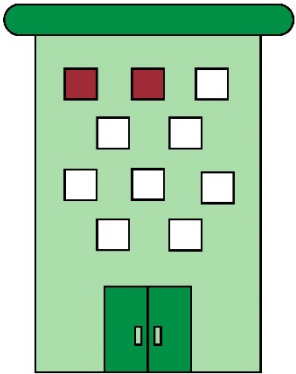
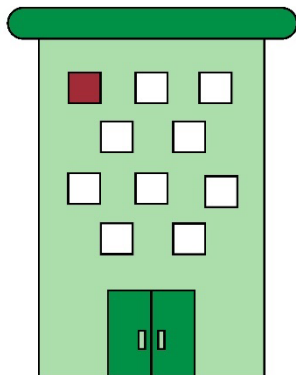
1. Increase the number of units available to households earning 80% or less of MFI, with an emphasis on households earning 60% or less of MFI;
2. Responsibly allocate resources to increase housing opportunities for families and individuals facing the greatest disparities;
3. Create affordable housing options in high opportunity neighborhoods, those with superior access to quality schools, services, amenities and transportation;
4. Promote a wide range of affordable housing options with regard to size, amenities and location.

The Program requires some new residential development to include affordable units

Residential buildings developed in Portland with 20 or more units are subject to the Inclusionary Housing requirement. There are five ways a developer can fulfil the requirement, and the City grants financial and development incentives for most of them.

With options one and two, developers must reserve some of the apartments in newly constructed buildings as affordable. The City incentivizes developers to build the more affordable option by waving an additional cost.

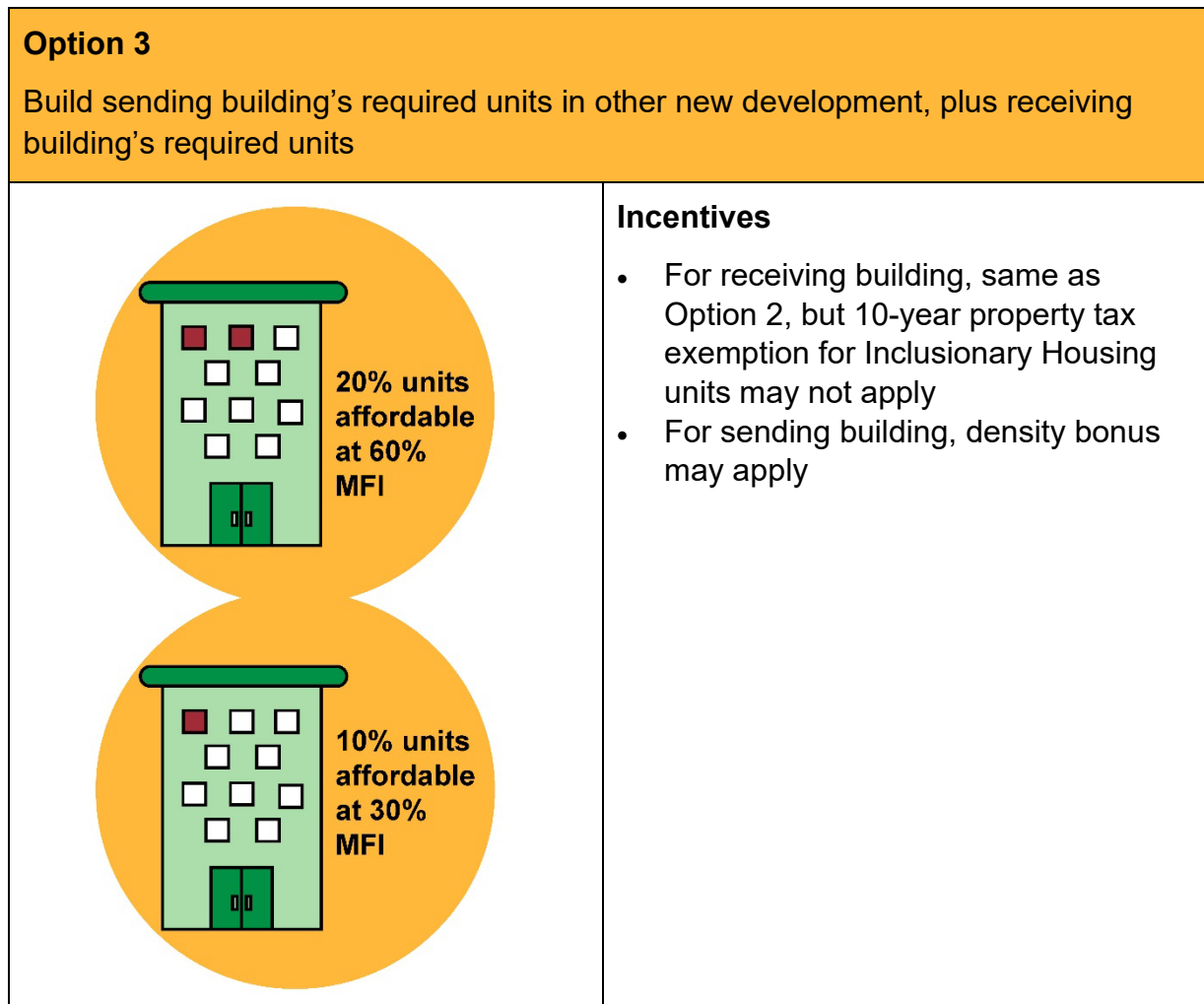
Figure 1. The City grants incentives to developers that provide affordable units (Options 1 and 2)

Option 1	
20% of newly constructed units affordable at 80% MFI	
 <p>A diagram of a light green building with a dark green roof and a dark green double door at the bottom. The building has 10 windows arranged in four rows: the top row has two red squares and two white squares; the second row has two white squares; the third row has three white squares; and the fourth row has two white squares.</p>	<p>Incentives</p> <ul style="list-style-type: none"> • 10-year property tax exemption for Inclusionary Housing units. For buildings in the Central City that meet density requirement, applies to all units • Construction excise tax exemption for Inclusionary Housing units • Parking requirement exemption may apply • Density bonus may apply
Option 2	
10% of newly constructed units affordable at 60% MFI	
 <p>A diagram of a light green building with a dark green roof and a dark green double door at the bottom. The building has 10 windows arranged in four rows: the top row has one red square and two white squares; the second row has two white squares; the third row has three white squares; and the fourth row has two white squares.</p>	<p>Incentives</p> <ul style="list-style-type: none"> • Same incentives as Option 1, plus • System development charge exemption for Inclusionary Housing units

Source: Audit Services' visualization of Inclusionary Housing development options from Administrative Rules updated August 2022 that were effective during our audit period, and testimony from Housing Bureau staff.

Developers can opt to include the affordable units in other eligible buildings, but there may be fewer incentives. For example, under option three, someone developing two buildings with three affordable units required in each building could include six units in one building and none in the other.

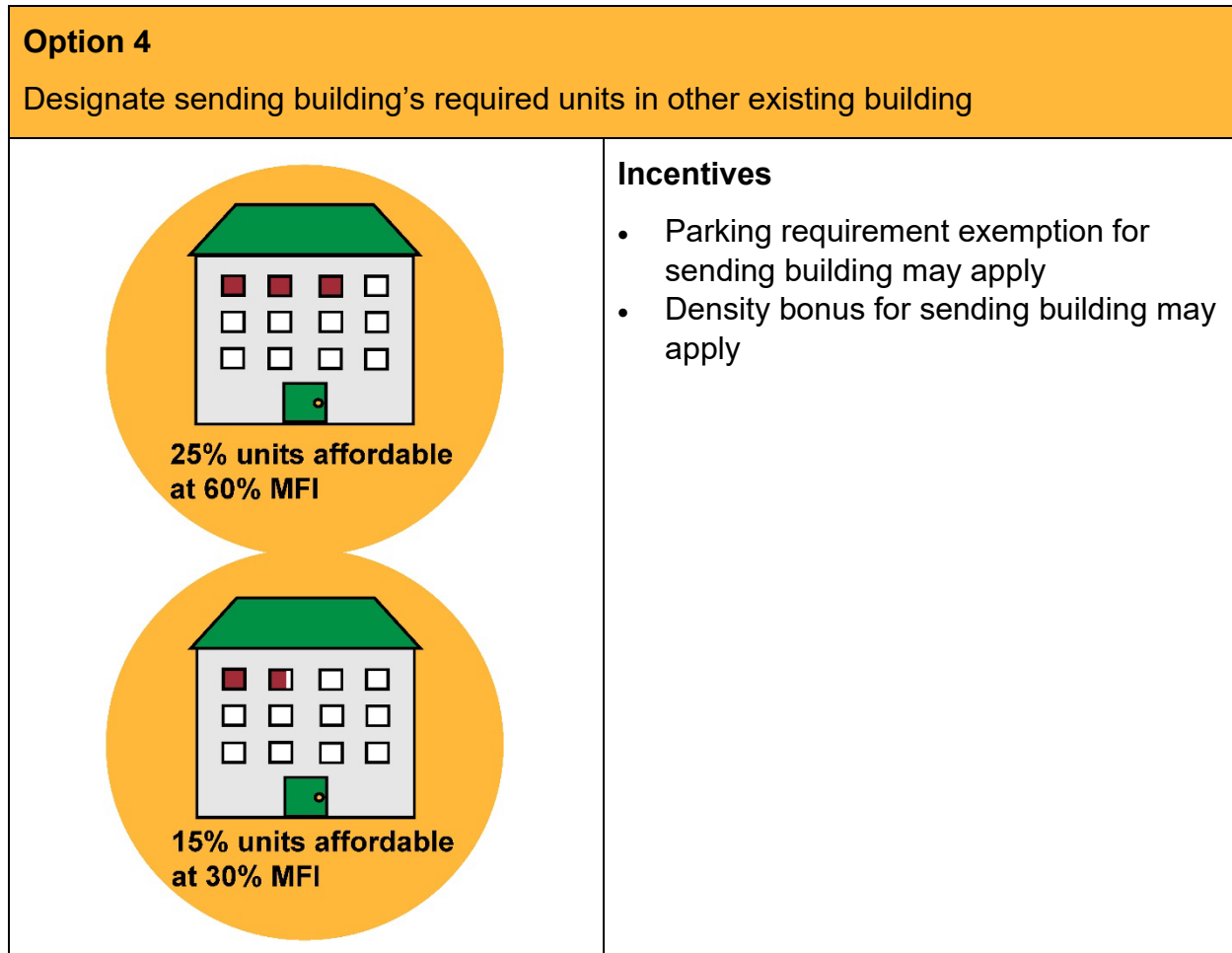
Figure 2. The City grants incentives to developers that provide affordable units (Option 3)



Source: Audit Services' visualization of Inclusionary Housing development options from Administrative Rules updated August 2022 that were effective during our audit period, and testimony from Housing Bureau staff.

Under option four, a developer could designate the required units in an existing building as affordable instead of constructing them in a new building.

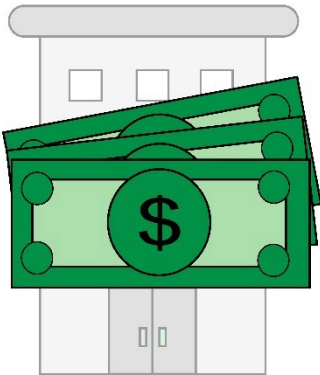
Figure 3. The City grants incentives to developers that provide affordable units (Option 4)



Source: Audit Services' visualization of Inclusionary Housing development options from Administrative Rules updated August 2022 that were effective during our audit period, and testimony from Housing Bureau staff.

A fifth option allows developers to pay a fee instead of setting aside affordable units and forego most incentives.

Figure 4. The City grants incentives to developers that provide affordable units (Option 5)

Option 5 Pay a fee instead of providing affordable units	
	Incentives <ul style="list-style-type: none">• Density bonus may apply

Source: Audit Services' visualization of Inclusionary Housing development options from Administrative Rules updated August 2022 that were effective during our audit period, and testimony from Housing Bureau staff.

Most Inclusionary Housing units are located in market-rate buildings. They may be indistinguishable from market-rate apartments because they are required to be comparable in size, have finishes like flooring that are expected to last an equal amount of time, and have appliances with equal Energy Star ratings. For the on-site development options, Inclusionary Housing units must be distributed throughout the building.

There are also additional applicant screening requirements and different rents for the Inclusionary Housing units. To qualify for an apartment, a household's total income cannot exceed amounts set annually by the Department of Housing and Urban Development (HUD). These limits are based on MFI estimates and Fair Market Rent area definitions for the Portland-Vancouver-Hillsboro area. MFI is the middle of the range of incomes of all families by size in an area, including those with no income.

The Program allows a household's income to rise while living in the apartment. If the household's income rises beyond set limits, the owner may raise the rent to market-rate

and must set aside a comparable unit in the building as the replacement Inclusionary Housing apartment.

Figure 5. In 2022, households of four with incomes up to \$85,200 and \$63,900 qualified for the Program

Income restriction	In 2022, household of four can make	Once in unit, income can rise to	Two-bedroom monthly rent with utilities cannot exceed	Three-bedroom monthly rent with utilities cannot exceed
Unit designated affordable at 80% MFI	\$85,200	\$127,800	\$1,918	\$2,216
Unit designated affordable at 60% MFI	\$63,900	\$106,500	\$1,438	\$1,662

Source: Audit Services’ visualization of 2022 Median Income for household of four to meet Program income qualifications, and 2022 maximum monthly rent including utilities for units affordable at 80% and 60% MFI published by the Portland Housing Bureau.

The Housing Bureau annually publishes the maximum rent, including utilities, that a property owner can charge depending on the size and affordability level of a unit. These limits are set annually by HUD. The maximum rent for Inclusionary Housing units, including utilities, is 30% of the Program’s income limit for a household of one for studios, and one-and-a-half per bedroom for larger units.

The development side of the Inclusionary Housing Program has received significant attention from developers, community and affordable housing advocates, the media, and the City. Some critics argue the Program has made developing buildings with more than 20 units harder to finance and less profitable, which has stifled the creation of both market-rate and affordable housing in Portland.

We did not explore the Program’s effects on overall housing development in this audit because the City was already planning to. When we began our audit, the Housing Bureau was planning an Inclusionary Housing study focused primarily on development. A workgroup made up of development and housing professionals from the private, public, and community development sectors have since reviewed the analysis and findings from the study. In July 2023, the workgroup recommended that City Council focus on simplifying the design of the Program, making it more flexible, and extending the more generous property tax exemption available to some buildings in the Central City — an area that stretches from the West Hills to SE 12th Avenue, and from the

Lloyd and Pearl districts to Powell Boulevard and South Waterfront — to buildings with Inclusionary Housing in other areas.

This audit analyzed the Program's outcomes as they relate to its goals. It also examined if the Bureau was prepared to identify when property owners are out of compliance with Program requirements. We identified risk in this area because the Bureau delegated important Program functions to property owners. They are responsible for marketing the affordable units, determining that applicants are eligible, and continue to be over time, and charging below-market rent. There is additional risk because the Bureau has not dedicated sufficient resources to providing property owners the information and tools needed to find qualified tenants and follow Program requirements. Additionally, the Bureau is behind in monitoring property owner compliance, which impedes its ability to effectively identify and address problems. We focused on Inclusionary Housing apartments for rent — not condominiums for sale — because so few had been developed.

Audit Results

Goals need improvement to help manage and accurately convey purpose and limitations of the Program

We found the Inclusionary Housing Program's goals were not effective performance measurement tools and did not accurately convey the Program's purpose. We could not determine if the Program was meeting its goals to increase affordable housing because the Program is one of many factors that influence the development and net amount of affordable housing. In addition, the goals were not specific to the Program or realistic.

For example, several goals focus on increasing affordable housing opportunities, such as goals to increase the number of units available to households earning 60% and 80% or less of MFI, increase housing opportunities for families and individuals facing the greatest disparities, and create affordable housing options in high opportunity neighborhoods. However, there are other factors that directly and indirectly effect the total number of affordable housing units in the City and net changes cannot be attributed to the Program alone. Additionally, these goals do not indicate the amount of housing the Program aims to create. As a result, we did not know if the number and location of Inclusionary Housing units produced through the Program were evidence of success.

The goal to responsibly allocate resources to increase housing opportunities for families and individuals facing the greatest disparities is not realistic or specific to the Program. Inclusionary Housing units are intended for households earning 60% or 80% of MFI or

less. Bureau managers said that by requiring the private market to build 60% and 80% MFI housing, the Program frees up money it can use to finance housing for lower income households. However, the Bureau does not track how Inclusionary Housing has increased those opportunities. The goal is also not clear because the greatest disparities is not defined and could be interpreted to refer to different types of disparities including economic or racial.

Setting goals that are clear, realistic, and specific to the Program would help the Bureau measure the Program's progress and identify where adjustments may be needed. This would also help the public and stakeholders understand the Program's purpose and limitations and where decision makers should focus other affordable housing efforts.

The Bureau changed the goals for the Program in March 2024. We did not evaluate the new goals since we had already concluded our audit fieldwork.

Instead of determining if the Programs' goals were met, this audit analyzed Program outcomes based on Inclusionary Housing unit production, size, location, and population served.

The Program helped produce affordable housing, but it is not for those facing the greatest disparities

We found that the Inclusionary Housing Program has helped create affordable housing options in high opportunity neighborhoods. The majority of the housing is intended for people earning 60% or less of MFI.

While positive, these are not the Portlanders facing the greatest economic disparities. Twenty-two percent of Portland households had incomes of less than \$35,000 in 2022 — the equivalent of 33% MFI for a family of four. Studios and one-bedrooms are the most common types of Inclusionary Housing apartments developed. In all of Portland's neighborhood areas, market-rate studios and one-bedrooms are affordable to moderate-income families, and to low-income families in most neighborhoods.

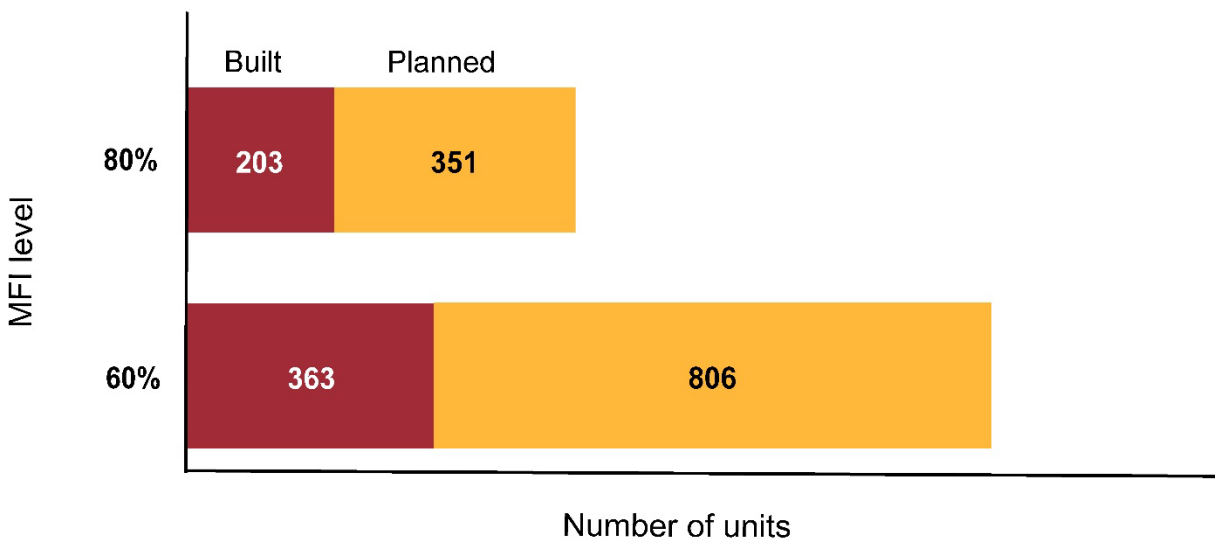
We also examined how accessible the Program was to people facing the greatest racial disparities and found that renting families with lower incomes, often renters of color, may not be able to rent apartments big enough for their families because property owners can require applicants to demonstrate they earn a minimum income. In combination with the Program's income limit, there is often a narrow window a household's income must fall within to rent an Inclusionary Housing unit.

We also found that most of the Program's apartments are not family-sized and those that are can be rented by smaller households.

The Program has helped produce affordable apartments in high opportunity neighborhoods and collected fees intended to fund affordable housing

There are new apartments and condominiums available to households earning 60% and 80% or less of MFI as a result of the Program. From the beginning of the Program to April 2023, 566 apartments for rent in 78 buildings had been built, with 1,157 more anticipated. Two condominiums for sale had been built since the Program began in 2017. The majority of the new units built and planned are affordable at 60% MFI.

Figure 6. As of April 2023, more units built and planned are affordable at 60% MFI



Source: Audit Services' analysis of data maintained by the Housing Bureau to track permits for Inclusionary Housing for completed and planned buildings.

The Program has integrated affordable housing within market-rate buildings. The majority of units built (353) and planned (688) are in privately developed buildings, alongside market-rate ones. The minority of units built (213) and planned (432) are located in buildings developed by not-for-profit and public affordable housing providers alongside other affordable units with income restrictions.

Figure 7. As of April 2023, the majority of Inclusionary Housing units are in high opportunity neighborhoods



Source: Audit Services' analysis of addresses of completed buildings with Inclusionary Housing as of April 2023 and opportunity zone map.

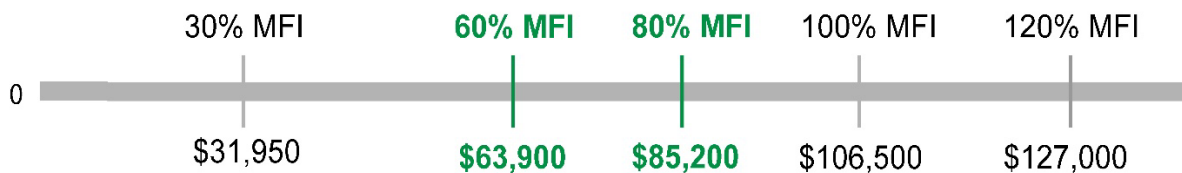
Most Inclusionary Housing units are in neighborhoods the Bureau classifies as high opportunity. These are parts of Portland with superior access to quality schools, services, amenities and transportation. Although the Bureau has not set a target for the number of affordable housing options it aims to create in these areas, we found that 68% of all units built are in neighborhoods with high opportunity scores. This is due largely to most of the units being in private market buildings; developers want to build in high opportunity neighborhoods because they are desirable for renters.

The Program seeks to create affordable housing by integrating it into market-rate buildings, but developers can choose to pay a fee instead. The Housing Bureau collected more than \$5 million in fees from developers that opted not to set aside affordable units between July 2017 and April 2023. According to the Bureau, by the end of 2025, it will collect more than \$7 million from the owners of a newly opened building who have not fulfilled their agreement to develop affordable condominiums. The fees are intended to fund affordable housing development and preservation, but according to the Bureau, as of June 2023, this had not yet happened. Instead, the fees have gone solely towards Program operating costs, although Bureau managers said they plan in the future to use the fees to also fill affordable housing finance gaps.

The Program has not increased housing opportunities for people facing the greatest economic disparities

The Program has created new housing opportunities for moderate-income households — those making below 60% and 80% MFI — not Portlanders facing the greatest economic disparities. Twenty-two percent of Portland’s households had incomes of less than \$35,000 according to the 2022 American Community Survey. A family of four with this income would be just above 30% MFI.

Figure 8. The Program is designed for moderate-income households, not Portlanders facing the greatest economic disparities



Source: Audit Services’ visualization of 2022 MFI levels for a household of four, published by the Portland Housing Bureau.

Additionally, because Program eligibility and rents are tied to the Portland area’s MFI, if the area continues to get richer, the Program’s income limits and maximum allowable rents will rise. The expanded eligibility and rent increases may make Inclusionary Housing apartments less accessible to households whose incomes have not risen at the same rate.

HUD annually estimates MFI for every area in the country to set income limits for assisted housing programs. HUD uses MFI prepared by the Census Bureau as the basis for its calculations. An area’s MFI is the measure of median income of families and includes both renters and homeowners. The median income of homeownership families is much more than that of families who rent. For example, the median income for homeownership families of four in the Portland area in 2020 was more than 120% MFI, while that of renting families was less than 60%. These higher incomes increase the area MFI and in turn, the Program’s income limits. As a result, renters whose incomes are more than the median income of renting households are eligible for the Program.

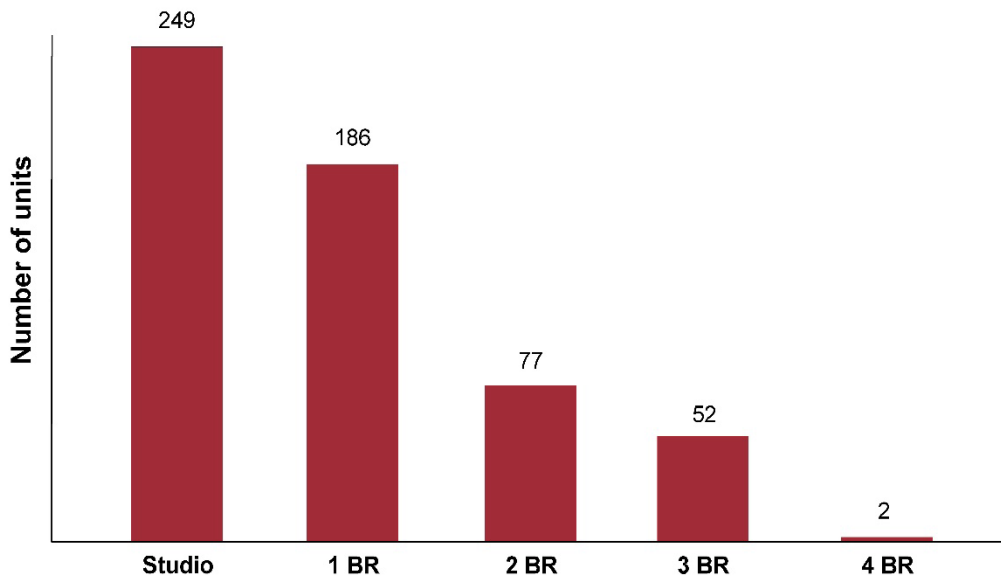
Because the rent is tied to area MFI, the amount that renters may have to pay for Inclusionary Housing units does not always qualify as affordable. For example, the maximum rent for a three-bedroom restricted at 80% MFI in 2020 was 42% of the median income of a renting family of four and 15% of that of a homeownership family. Housing is generally considered affordable when rent and utilities make up less than 30% of a household’s gross income. Because of this, the maximum rent a property

owner can charge for an Inclusionary Housing apartment is 30% of the income limit and varies by affordability level and size.

Smaller Inclusionary Housing units are the most commonly produced and already affordable

By capping the rent including utilities that property owners can charge at 30% of MFI, the Program seeks to make Inclusionary Housing apartments affordable. But according to the Housing Bureau’s 2022 State of Housing Report, the apartment types most commonly produced through the Program—studios and one-bedrooms—are already affordable outside of the Program for some families. Additionally, in 2022, the maximum rent owners could charge for Inclusionary Housing studios, one-, two-, and three-bedroom apartments affordable at 80% MFI was more than the average market rent being charged citywide and in most neighborhood areas for units that size.

Figure 9. As of April 2023, by far the most Inclusionary Housing units built are studios and one-bedroom (BR) apartments



Source: Audit Services’ analysis of data maintained by the Housing Bureau to track information about completed buildings with Inclusionary Housing permits.

Bureau managers said that market-rate studios and one-bedrooms in older buildings may be affordable, but not those in newer buildings. Managers added that they anticipate rents in high opportunity neighborhoods to rise faster than other areas of the city, so there are long-term benefits to the Program’s 99-year affordability restrictions.

People facing the greatest racial disparities may qualify for the Program, but not always to rent the apartments

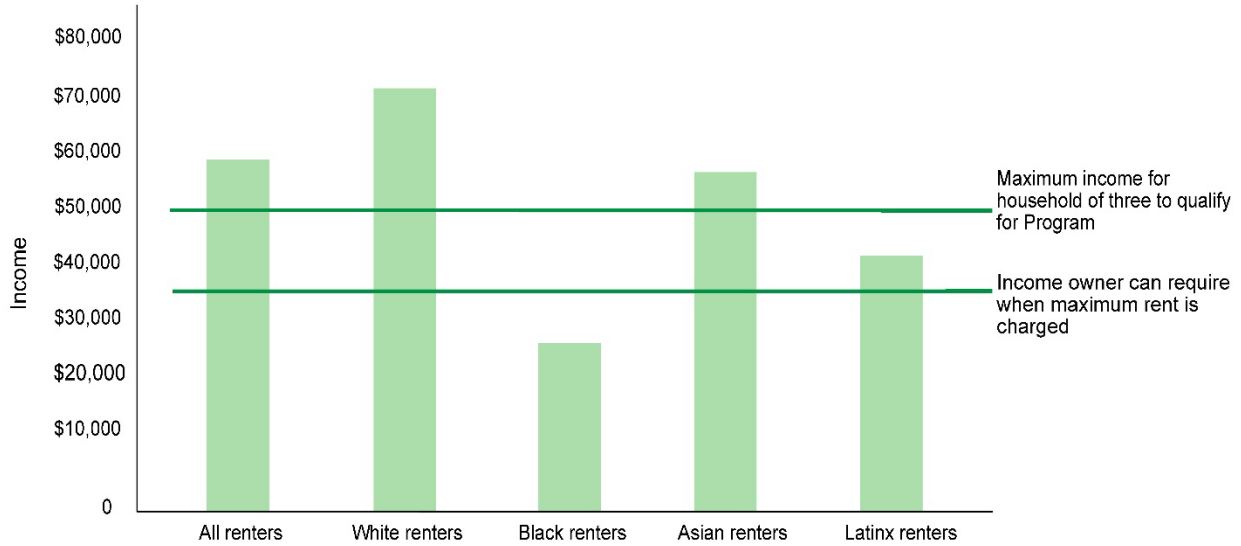
Portland City Code allows property owners to require tenants demonstrate they make a minimum income, called the income-to-rent ratio. For apartments priced below 80% MFI, tenants may have to demonstrate they earn two and a half times the rent in income. For apartments priced at or above 80% MFI, they may have to show they earn two times the rent. Although some property managers we spoke to said they require applicants to demonstrate a minimum income, this is an area where we found inconsistent understanding of Program requirements among property managers, as managers of one building believed they were prohibited from requiring this of applicants for Inclusionary Housing apartments.

While the Program requires that renters cannot make more than the maximum allowable income, the income-to-rent ratio narrows the eligibility window by requiring renters to demonstrate they also make a minimum income. The result is that renters with lower incomes, often renters of color, may not be able to rent units created through the Program. Requiring applicants to demonstrate they earn enough to meet the ratio helps ensure they will not default on rent and mitigates owner risk, but it also a barrier for some renting families of color.

We analyzed MFI by race in the Portland area to understand how accessible the Program was to renters of different races.

We found that the MFI of white renters was often greater than the Program's income limit, so most would not qualify. Renters of color were more likely to be eligible because their MFIs were less. However, the median income of Black renting families was often not enough to meet the income-to-rent ratio for Inclusionary Housing apartments big enough for their families. For example, Black and Latinx renting families of three were the only groups with median incomes below the Program's limit. While the median income of Latinx renting families was enough to meet the income-to-rent ratio a property owner could require, the median income of Black renting families was not.

Figure 10. MFI of Black and Latinx renting families of three meet Program requirements for a two-bedroom restricted at 60% but their MFI is not enough to meet income-to-rent ratio that owners can require



Source: Audit Services’ analysis of MFI estimates compiled by Portland State University’s Population Research Center, for renting families of three by race from American Community Survey 2016-2020 Public Use Microdata Sample (PUMS) for the Portland Public Use Microdata Area (PUMA), adjusted for 2020 inflation; maximum income allowed by Program to qualify for 2BR apartment restricted at 60% MFI, as published by the Portland Housing Bureau; income-to-rent ratio of 2.5 when maximum allowable rent for 2BR is charged.

As a result, when property owners require applicants to demonstrate they earn a minimum income, fewer Black families may be able to rent Inclusionary Housing apartments that best suit their families in terms of size.

Fewer housing opportunities are available for households of more than two

Although the Program had a goal to increase housing opportunities for individuals and families, as of April 2023, only 131 apartments built through the Program had two or more units, what the Bureau considers “family-sized.” These larger units represent 23% of the Inclusionary Housing apartments built as of April 2023, which is the same proportion of family-sized units produced outside of the Program.

The Program’s requirement that the mix of Inclusionary Housing apartments mirror the mix of differently sized market-rate apartments may be a reason why the Program is producing family-sized units at the same rate as produced outside of the Program. The

Program incentivizes the development of family-sized units by allowing developers of buildings with two-bedroom or larger unit sizes to reconfigure or combine some of the required studios and one-bedrooms into family-sized units. Although developers of 12 buildings had opted to reconfigured studios and one-bedrooms into family-sized units as of April 2023, this option did not help the Program produce a greater rate of family-sized units than were produced outside of the Program.

The family-sized units produced through the Program may also be underutilized by households of three and larger. We found that 44% of the three-bedroom apartments produced through the Program were vacant between four and 15 months after their buildings opened. That meant the units were not helping to address Portland's shortage of affordable housing during the time they were vacant.

There are also no Program controls to keep small households from renting family-sized apartments. As a result, some households of two and three can rent units with an extra bedroom that is not used for sleeping. In 2020, the MFI of these renting families qualified for the Program and were enough to meet the income-to-rent ratio. We did not ask property managers if this occurred in their buildings, and none volunteered that it had, but one said they thought the Program allowed people to afford to live alone when they would otherwise have needed to share rent with someone. Another property manager mistakenly believed there was an occupancy requirement and told potential applicants there needed to be one person per bedroom.

At the inception of the Program, Bureau staff developed an occupancy standard that required there be at least one person for each bedroom. Program managers could not speak to the history of the standard, but said such a rule could violate the Fair Housing Act. Having a spare bedroom could allow a household to have an in-home office or guest bedroom, but also reduces the number of affordable housing opportunities for larger households.

The Bureau must allocate sufficient resources to help ensure that Inclusionary Housing units benefit the intended population

This audit also examined whether the Bureau was prepared to identify and respond when property owners were out of compliance with Program requirements. We identified risk in this area because once Inclusionary Housing units are developed, it is up to property owners and managers to carry out functions that help the Program work as intended. They are responsible for marketing the affordable units, determining that applicants are eligible and continue to be over time, and charging below-market rent.

Most owners and managers do not have experience leasing affordable housing and many we spoke to said they have not gotten enough education and assistance from the Bureau about the requirements they are expected to follow. Some managers have struggled to market Inclusionary Housing units, resulting in vacancies. Others were confused by or unaware of Program requirements resulting in a few units rented without screening tenants for income eligibility, and others rented for more than the maximum allowable rent. However, the Bureau cannot effectively detect and consistently address compliance problems because it was two years behind in its review and testing of compliance data reported by property managers.

The Bureau has not provided property owners the information and tools needed to find qualified tenants and follow Program requirements

In Portland's Inclusionary Housing Program, property owners and managers are responsible for marketing affordable apartments. Once someone has applied, the property owner or manager must screen the applicant and verify their household makes below the income limit required by the Program. Every year after, they must recertify the household's income to make sure they remain eligible.

Experts recommend that governments relying on property owners and managers for essential Program activities, such as selecting tenants and verifying income, should educate them on marketing and monitor to see if it is fair. They also stress that governments should ensure property managers understand the requirements they are expected to follow. The Housing Bureau has not dedicated sufficient resources to these areas.

During our audit we interviewed property managers representing 20 buildings with Inclusionary Housing open as of April 2023. Several managers said that marketing Inclusionary Housing units and finding qualified tenants was difficult. Because households must meet the Program's income restrictions, the marketing strategies property managers use for market-rate units may not be enough to reach people who want and are eligible for Inclusionary Housing. There is often publicity and media coverage of new publicly-financed affordable housing buildings that helps alert renters and social service agencies of the housing opportunities. This is not the case for the Inclusionary Housing units located within market-rate buildings, so people looking for affordable housing may not know it exists.

Some managers said they had expected or wanted marketing support from the Housing Bureau. The Bureau provides property managers a list of community-based

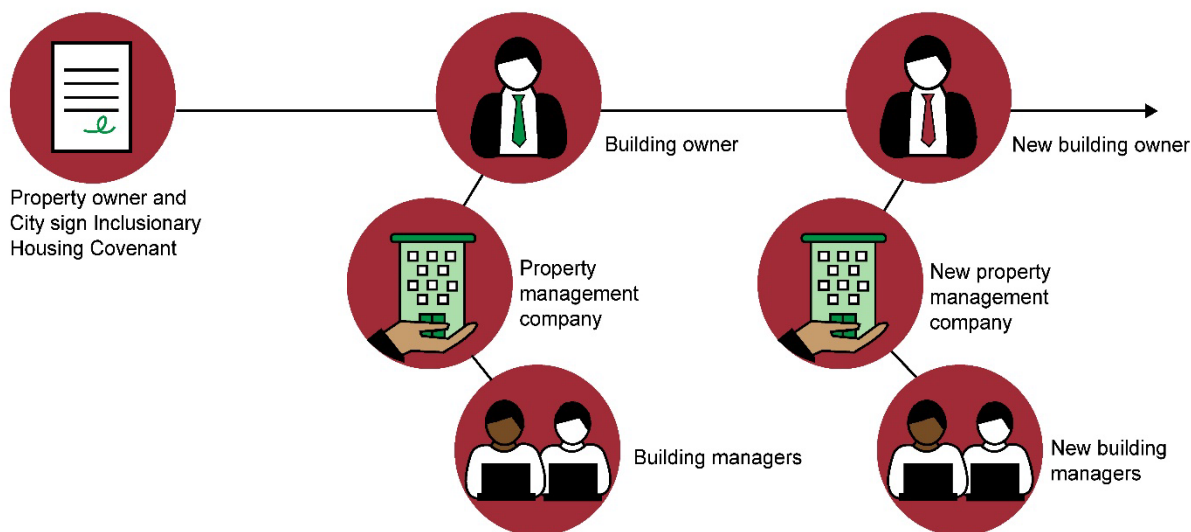
organizations they suggest marketing to, but some property managers said their outreach to the organizations did not help attract qualified tenants.

As a result, several property managers said Inclusionary Housing apartments have been harder to fill and vacant for longer than market-rate ones in the same buildings. According to three property managers, 12 three-bedroom apartments, the equivalent of 23% of the total three-bedroom apartments constructed through the Program as of April 2023, were vacant for more than a year after their buildings opened, and another 11 (21% of the total) were vacant between four and 10 months. The Housing Bureau was not monitoring marketing or Inclusionary Housing unit vacancies in market-rate buildings and was not aware of these problems. Vacant Inclusionary Housing units do not benefit renters who need affordable housing or help address Portland's housing crisis. In addition to the problem of vacancies, these conditions create risks of unfair marketing and property managers renting to people who do not qualify because of pressure to fill vacancies.

Most property managers we interviewed also said they do not have enough information about the Program or the leasing and reporting requirements they are expected to follow. Private market property managers in particular seemed to face this problem. Some managers with previous affordable housing experience said they understood the requirements, and a few said the Bureau provided the tools and support they needed.

The Bureau has a website with information about Program compliance. Staff also send letters with information about leasing and reporting responsibilities and links to resources to the owner or manager on file when construction is nearly complete.

Figure 11. Over 99 years, a building could be sold and managers could change many times, increasing the risk of compliance problems



Source: Audit Services' visualization of relationship between the City, property owners, and other parties that may be involved in building management during 99 years based on Inclusionary Housing covenant and interviews with Bureau staff and property managers.

However, since the time that the property owner and the Bureau entered into the Inclusionary Housing agreement, building management may have changed—the building may have been sold, and owners often hire property management companies whose staff deal with day-to-day management of the building. Bureau staff said they are not always informed of management changes, so the letter does not always initially go to the correct person, and compliance information is not always shared with those responsible for screening applicants and leasing. They added that owners and managers of private market buildings often need a lot of education and support, but they sometimes seek and get the assistance after the Inclusionary Housing units in their buildings have been leased. That means building owners and managers may initially rent units without fully understanding how to determine if applicants are eligible.

Some property managers said turnover in building management left them uninformed about the Program, while others said the information provided by the Bureau was difficult to navigate and didn't help them fulfill their responsibilities and comply with Program requirements.

Bureau staff have worked with individual managers with identified compliance problems, but said they had been unable to provide general training to property managers about fulfilling Program requirements due to heavy workload.

Due to lack of information, some property managers have not or are unsure how to follow Program requirements. Property managers' limited understanding of the Program has also caused other problems. Two managers paid a company specializing in affordable housing compliance to verify applicants' income because they did not know how thorough the reviews needed to be. The company requires onerous documentation, resulting in applications exceeding 200-pages. The property managers said this was time-consuming for applicants and themselves. One added that it lengthened the application process and that some people eligible for the Program decided to rent market-rate apartments in the building to avoid the hassle. Bureau managers said there are instructions on verifying income on its website and the amount of documentation the company requested seemed unnecessary.

Inclusionary Housing units must remain affordable for 99 years from the time the buildings open. However, it can be difficult to ensure that owners and their designees have information about the requirements they are expected to carry out because building owners and managers may change during this time. Earlier and more regular education and training of property owners and managers could simplify the process for potential renters, help prevent compliance problems, and save the Bureau time in the long run.

The Bureau must dedicate sufficient resources to monitor compliance

The Bureau has not established a timely and thorough system for monitoring and enforcing compliance with Inclusionary Housing Program requirements. As a result, when property managers do not follow Program requirements, the Bureau cannot consistently and effectively identify problems and respond. An effective system is necessary considering the important functions the Bureau has delegated to property owners and managers, and the anticipated growth in buildings with Inclusionary Housing.

Property owners and managers of Inclusionary Housing units are required to report rents charged and tenants' income in an online system managed by the Bureau on an annual basis. The Bureau does not require owners to submit documentation to back up what they report, and staff have not verified that the information is accurate, although they reserve the right to do so. Bureau staff said they rely on the honor system for reporting. Two systems test if the reported rents were below the maximum, and that tenants met income requirements. Bureau staff review the results, manually test exceptions or testing errors, and work with property managers, as needed, to resolve questions and compliance problems. As of May 2023, the Bureau was two years behind in its compliance reviews.

Without timely compliance monitoring, the Bureau cannot always identify and correct issues that can nullify the affordability benefits of the Program. This creates a risk that Inclusionary Housing units may not help meet Portland's affordable housing needs. For example, Program staff contacted managers of three buildings that had not submitted annual compliance reports or reported having no Inclusionary Housing units. During that process, they identified that units in one building were not rented at affordable rates, and at least three units were rented without screening tenants for income eligibility in two other buildings. The Bureau was unable to determine if units were rented to qualified tenants in one building since they were reviewing information from two years prior and the tenants and property managers had turned over.

If the planned buildings with Inclusionary Housing in the development pipeline as of April 2023 are built, the buildings the Bureau will need to monitor will more than double. Without additional resources dedicated to monitoring, the Bureau will likely fall further behind and will not be able to effectively identify and respond when property managers are out of compliance or need assistance.

Recommendations

To help the public and Program stakeholders understand the purpose and limitations of the Program, and help Bureau managers assess progress and where adjustments are needed, the Housing Bureau should:

1. Improve Program goals so they are specific to the Program, attainable based on who the Program is designed to serve, and measurable. Goals should be informed by Portland's housing needs and analysis of Program outcomes.

To ensure the Program serves the intended population, helps address Portland's affordable housing needs, and reduces compliance issues, the Housing Bureau should:

2. Determine and document if the following would advance City goals:
 - Requiring or further incentivizing the development of affordable units with two or more bedrooms; and
 - Implementing Program controls to help ensure there is at least one household member per bedroom.

These assessments should be informed by Portland's affordable housing needs, Fair Housing Law, and consultation with the City Attorney's Office, and should inform future affordable housing development strategies.

3. Develop methods and guidance for property owners to help ensure that marketing is effective and fair. Approaches to consider include:

- Sharing information with affordable housing providers, community-based organizations, and community service information resources like PDX 311 and 211info about buildings with Inclusionary Housing;
 - Improving the Bureau’s online information about buildings with Inclusionary Housing and affordable rental options;
 - Providing tools and training to property owners and managers on marketing affordable units to groups who may be eligible;
 - Monitoring Inclusionary Housing unit vacancies regularly to identify buildings that need support;
 - Making marketing and leasing Housing Bureau responsibilities.
4. Improve compliance monitoring so that problems can be effectively identified and addressed; and improve education and support for property owners and managers. Approaches should account for building management changes and may include:
- Directly and regularly providing property owners and managers information and resources about how to carry out their responsibilities. For newly opened buildings, this should happen before pre-leasing has begun;
 - Regularly meeting with property owners and managers;
 - Providing regular training for property owners and managers;
 - Improving Program controls so the Bureau learns of management changes in time and can share Program information with new managers;
 - Structuring the Inclusionary Housing website so different users can easily find the information they need;
 - Performing compliance activities, like income certification, in-house.

The Housing Commissioner and Director responded to our report

We provided this report to the Housing Bureau and the Commissioner in Charge for their response. Their response did not specify agreement with our audit findings and recommendations.

The response to recommendations 1, 3, and 4 described elements of the Program's design that if left unchanged, could run counter to best practices we recommended the Bureau consider.

The response to recommendation 2 focused on the tools we identified for assessment rather than the assessment we recommended. Our recommendation was that the Bureau determine and document if additional incentives and controls would advance City goals and that these assessments should be informed by Portland's affordable

housing needs, Fair Housing Law, and consultation with the City Attorney's Office, not that the Bureau should implement those tools.

The response stated that the audit acknowledges the implementation of the Inclusionary Housing permit review process, tracking of permit data, and restricting properties with appropriate covenants has been done successfully. Outside of testing the reliability of the spreadsheet the Bureau used to track information about buildings with Inclusionary Housing permits described in the next section, our audit did not examine or draw conclusions in these areas.

The response also stated that the audit clarifies that additional funding is needed for the Bureau to provide market-rate developers with more education and support. Our audit did not review how the Bureau allocates its budget or whether there are efficiencies that could free up funding for Program administration, including property owner education and support, and as a result, our audit did not make conclusions about Program funding.

How we did our work

Our audit objective was to assess the Inclusionary Housing Program's progress toward meeting its goals, and determine if the Housing Bureau is prepared to identify non-compliance with Inclusionary Housing regulations as the Program expands. We focused our review on apartments for rent because only two for-sale condominiums were built when we started our audit. We focused on Program operations, and buildings developed and planned for which the Program recorded an Inclusionary Housing application between February 2017 and April 2023. Program changes made after April 2023 were not part of our review.

To accomplish our audit objective, we:

- Interviewed managers and staff from the Portland Housing Bureau and the Bureau of Planning and Sustainability; representatives of community development corporations and community-based organization serving renters; real estate developers; the Director of Portland State University's Population Research Center; and a non-representative judgmentally selected sample of 12 owners and managers representing 20 buildings with Inclusionary Housing (26%) open as of April 2023. We interviewed all managers and owners who responded to our request. These results cannot be generalized to all property owners and managers.
- Reviewed City Code; Council Ordinances; Portland's 2035 Comprehensive Plan; State and Federal laws; Housing Bureau budgets, equity plan and goals, and guiding principles; Inclusionary Housing Administrative Rules, policies, guidance for developers and property owners; public information about property management; Inclusionary Housing approval letters and Covenants, welcome letters, and

correspondence for a sample of buildings with Inclusionary Housing; best practices, studies, summary reports, presentations, and media about Inclusionary Housing in Portland and other jurisdictions; media, reports and studies about housing and anticipated need, growth, and income in Portland; information about Inclusionary Housing and permitting from the City's website; information from the American Community Survey about Median Family Income (MFI), and information from the U.S. Department of Housing and Urban Development on income limits for regulated housing programs; audits; and public information about the property management industry.

- Reviewed minutes from Council meetings and work sessions about Inclusionary Housing.
- Reviewed and analyzed data maintained by the Portland Housing Bureau to track applications for Inclusionary Housing permits between February 2017 and April 2023.
- We determined that the data from the Housing Bureau's Inclusionary Housing tracking spreadsheet were sufficiently reliable for the audit's purposes. We assessed the reliability of the data by:
 1. Performing completeness and duplicate testing,
 2. Interviewing staff and managers knowledgeable about the data, and
 3. Tracing a judgmental sample of 11% of data to legal documents and online information about buildings.
- Reviewed and analyzed MFI for homeowners and renters by race from the American Community Survey, 2016-2020 Public Use Microdata Sample (PUMS). The data was compiled by Portland State University's Population Research Center. The data are adjusted for 2020 inflation and have a 90% confidence interval. The data is for the Portland Public Use Microdata Areas (PUMA), which provide more than 95% coverage of the population of the City of Portland. The sample sizes for Native Hawaiian and Native Americans in Portland were too small for the data to be reliable.
 - When we discuss our analysis of renters' MFI, we are referring to that from the American Community Survey. When we discuss the Program's MFI limit, we are referring to that published by the U.S. Department of Housing and Urban Development.
- Reviewed and analyzed compliance data reported to the Housing Bureau by owners and managers of buildings with Inclusionary Housing that opened between 2018 and 2020, and the Housing Bureau's tracking of completed compliance testing.
- Queried data from the City's accounting system about revenue collected in Inclusionary Housing administrative fees and the fees paid in lieu of setting aside affordable units.

- Reviewed data from the real-estate database CoStar on the number of units by bedroom count in residential buildings with more than 20 units produced in Portland between January 2017 and August 2023.
- Mapped addresses of buildings from a list maintained by the Portland Housing Bureau to track applications for Inclusionary Housing permits between February 2017 and April 2023 on an opportunity map provided by the Bureau. Counted the number of units by size in each opportunity area.
- We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit team: Jenny Scott, Principal Performance Auditor
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City of Portland

Commissioner Carmen Rubio

Portland Housing Bureau Director Helmi A. Hisserich

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May 3, 2024

Simone Rede
City of Portland Auditor
1221 SW 4th Ave, Room 310
Portland, OR 97204

RE: Audit of the Inclusionary Housing Program

Dear Auditor Rede,

Thank you for the opportunity to share feedback on the Inclusionary Housing (IH) audit, which provides analysis of the first iteration of Portland's Inclusionary Housing program. When it was first passed by City Council in 2016, a commitment was made to evaluate the program after several years of implementation. Changes were recently adopted in January of this year. Even though the program has changed, Commissioner Rubio and the Portland Housing Bureau (PHB) recognize the great effort the Auditor's office has put towards this audit over the last several years.

The original IH program has successfully resulted in the development of 1,100 new units in market rate buildings affordable to households earning no more than 80% of area median income (AMI), with more than half of them restricted at 60% AMI. The audit acknowledges that the majority of the IH projects have been created in High Opportunity Areas where the inclusion of new affordable units is vital for the advancement of economic benefits to lower income households. The audit also acknowledges the implementation of the IH permit review process, tracking of permit data, and restricting properties with appropriate covenants to ensure compliance has been done successfully. The audit highlights the importance of ensuring long-term compliance with the affordability restrictions over 99 years, as well as the need to better assist owners and property managers with their annual reporting and to protect tenants within the IH buildings. Furthermore, the audit clarifies that additional funding is needed for PHB to provide the market-rate developers with more educational information and support.

Commissioner Rubio and PHB have provided feedback on the audit recommendations below.

Audit Recommendations

To help the public and Program stakeholders understand the purpose and limitations of the Program, and help Bureau managers assess progress and where adjustments are needed, the Housing Bureau should:

1. Improve Program goals so they are specific to the Program, attainable based on who the Program is designed to serve, and measurable. Goals should be informed by Portland's housing needs and analysis of Program outcomes.

Response: The IH goals at rollout of the program centered around how IH is part of the necessary housing continuum to meet the housing needs of Portlanders outlined in the 2035 Comprehensive Plan. PHB updated the IH goals in recent code changes after the IH Calibration Study so that they are more specific to current desired program outcomes:

A. Purpose statement. The purpose of the Inclusionary Housing (“IH”) program is to:

- 1. Establish an IH program structured to support the production of units affordable to households’ earning 80 percent of the median family income (“MFI”), with an emphasis on households earning 60 percent MFI or less,*
- 2. Structure the IH program to provide a variety of compliance options with an emphasis on mixed-income buildings in high opportunity areas.*
- 3. Provide IH program options and requirements to support the production of a variety of affordable unit types regarding unit size and bedroom count.*
- 4. Ensure IH units are equivalent to market rate units regarding in-unit amenities and are distributed throughout the building with access to all building amenities.*
- 5. Allocate IH program fee-in-lieu, fees, and charges, collected and paid into the inclusionary housing fund for housing opportunities affordable to households earning 80 percent MFI or less, with an emphasis on households earning 60 percent MFI or less.*

Although PHB more specifically seeks to serve the most vulnerable populations in Portland, including those earning 0-60% AMI, the IH program is ill-suited to provide deeply affordable housing. PHB focuses its direct funding programs on lower-income households developed in partnership with non-profit sponsors whose mission it is to serve lower income households, including those from Communities of Color. Through those relationships, these projects include wrap around services and other resources to help ensure households are successful in their housing. These services are not part of market-rate housing programming, making it infeasible to pursue lower income thresholds for the IH program.

The IH Calibration Study confirmed that most developments in Portland do need the development incentives provided through IH, such as tax exemptions, to offset the impact of reduced rents, particularly in High Opportunity Areas where most of the new housing has been built since IH went into effect.

To ensure the Program serves the intended population, helps address Portland’s affordable housing needs, and reduces compliance issues, the Housing Bureau should:

2. Determine and document if the following would advance City goals:
 - Requiring or further incentivizing the development of affordable units with two or more bedrooms; and
 - Implementing Program controls to help ensure there is at least one household member per bedroom.

These assessments should be informed by Portland’s affordable housing needs, Fair Housing Law, and consultation with the City Attorney’s Office, and should inform future affordable housing development strategies.

Response: The recent Housing Needs Analysis conducted by the Bureau of Planning and Sustainability in partnership with PHB and other City agencies reflects that 44% of Portland

households are lower income, earning no more than 80% AMI. The HNA identifies a need for more affordable housing and family-sized units. IH is an important tool for Portland to address its housing needs. Market-rate housing, with or without IH, is produced based on market demands and what is most profitable to developers and their investors, which is generally studio or one-bedroom units because they can charge a larger amount per square foot. Therefore, the units built under IH will reflect what the market is providing. The IH program does offer an incentive to developers to provide family-sized bedrooms (or two or more bedrooms) through the reconfiguration option, which allows developers to provide fewer units under the program as long as they are family-sized. This existing program incentive structure is working well in the Central City, where a full tax exemption is provided for buildings with IH units onsite, and developers have opted to use the reconfiguration option in all of the projects built to date and in process. PHB cannot require that developers lease units to a certain household size without potentially violating Fair Housing laws.

3. Develop methods and guidance for property owners to help ensure that marketing is effective and fair. Approaches to consider include:
 - Sharing information with affordable housing providers, community-based organizations, and 311 about buildings with Inclusionary Housing;
 - Improving the Bureau's online information about buildings with Inclusionary Housing and affordable rental options;
 - Providing tools and training to property owners and managers on marketing affordable units to groups who may be eligible;
 - Monitoring Inclusionary Housing unit vacancies regularly to identify buildings that need support;
 - Making marketing and leasing Housing Bureau responsibilities.

Response: PHB currently works closely with affordable housing providers, community-based organizations, and other City departments on the IH program and buildings with IH units. The bureau maintains an interactive map that displays properties under construction and open with IH units. The map provides property location, status (under construction or open), the total number of units, the number of IH units, and the building's overall unit mix. PHB acknowledges that there is additional opportunity to share information and is actively exploring new software that will allow property owners and managers to list IH units under construction and currently for rent. While the Housing Bureau encourages and requires property managers and owners to use available tools and resources to market and lease affordable housing units, marketing and leasing is ultimately a property owner responsibility.

4. Improve compliance monitoring so that problems can be timely identified and addressed; and improve education and support for property owners and managers. Approaches should account for building management changes and may include:
 - Directly and regularly providing property owners and managers clear information and resources about how to carry-out their responsibilities. For new buildings, this should happen before leasing has begun.
 - Regularly meeting with property owners and managers.
 - Providing regular training for property owners and managers.
 - Improving Program controls so the Bureau timely learns of management changes and can share Program information with new managers.
 - Structuring the Inclusionary Housing website so different stakeholder groups can easily find the information they need.
 - Performing compliance activities like income certification in-house.

Response: When the IH program was created, no additional funding allocation or fee collection mechanism was created for PHB to cover the cost of the necessary administration and on-going compliance work. Despite that funding shortage, PHB has recently been making several changes to address the issues outlined above. At the onset of the program, PHB dedicated 0.5 FTE to IH program compliance. Workloads have recently been adjusted to increase IH program compliance to 1 FTE. This increased FTE will allow for staff to learn of management and ownership changes in a timelier manner, allowing staff to identify and address issues promptly. Additionally, compliance staff regularly meets with property owners and managers to ensure an understanding of program and compliance requirements. PHB is also in the process of reconfiguring the compliance website to increase ease and accessibility to forms, documents, guidance, and training videos. Expanding on PHB's involvement with leasing activity of the Inclusionary Housing units would require significant additional resources. PHB is focused on effective implementation of the program during permitting, ensuring that sufficient legal documents are recorded to support long-term affordability, and working with owners and property managers to monitor and keep properties in compliance.



Carmen Rubio
Portland Housing Commissioner



Helmi A. Hisserich
Director of Portland Housing Bureau