

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

Legislative Session _____ 1991 _____

Resolution No. _____ CR-105-1991 _____

Proposed by The Chairman (by request - County Executive

Introduced by Council Members Castaldi, Fletcher,

Pemberton, Bell and Del Giudice

Co-Sponsors _____

Date of Introduction _____ October 22, 1991 _____

RESOLUTION

A RESOLUTION concerning

Moderately Priced Dwelling Unit Program

FOR the purpose of adopting regulations for the County's Moderately Priced Dwelling Unit Program.

WHEREAS, Section 13-257 of the Prince George's County Code provides that regulations for the County's Moderately Priced Dwelling Unit Program shall be proposed by the County Executive and adopted by the County Council by resolution; and

WHEREAS, the County Executive has proposed regulations for the County's Moderately Priced Dwelling Unit Program and submitted them to the County Council for approval;

NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's County, Maryland, that the proposed regulations for the Moderately Priced Dwelling Unit Program of Prince George's County proposed by the County Executive and submitted to the County Council

for approval on October 4, 1991, which regulations are attached hereto and made a part hereof, be and the same are hereby approved in accordance with the provisions of Section 13-257 of the Prince George's County Code.

Adopted this 26th day of November, 1991.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Richard J. Castaldi
Chairman

ATTEST:

Maurene W. Epps
Acting Clerk of the Council

Subject: Moderately Priced Dwelling Unit (MPDU) Program

Purpose: To establish guidelines for the administration of and requirements for participation in the Moderately Priced Dwelling Unit Program.

Authority: Subtitle 13, Division 8 of the Prince George's County Code

The Director of the Department of Housing and Community Development (DHCD) is responsible for the administration of the MPDU program in compliance with these regulations.

- Scope:**
1. Applicability
 2. Definitions
 3. Eligibility
 4. Occupancy
 5. Sale of MPDUs
 6. Rentals of MPDUs
 7. Right of First Refusal
 8. Alternative Methods
 9. MPDU Agreement Procedures
 10. Resale of MPDUs
 11. Foreclosures

1. Applicability

These regulations apply to residential development under Comprehensive Design Zones, Transit District Overlay Zones, Mixed Use Transportation Zones, and where 50 or more units are developed under R-80, R-55, R-35, R-30, R-30C, R-T, R-20, R-P-C, R-18, R-18C, R-10A, R-10, and R-H zoning. These regulations apply to all dwelling units sold or leased through the MPDU Program and to all persons applying for participation in the MPDU Program.

2. Definitions

The following terms are defined for use in these regulations.

Alternative Method of Compliance means a method other than the construction of moderately priced dwelling units within a development used to fulfill MPDU requirements.

Applicant means any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, and any transferee of all or part of

the land in which the MPDU Program applies, who submits for approval a preliminary plan of subdivision or detailed site plan that is not pursuant to an approved preliminary plat of subdivision after January 1, 1991.

Certificate of Eligibility means a one year certificate issued by the DHCD to an eligible person or household meeting the income requirements under the MPDU Program.

Chief Administrative Officer means the head of the executive branch responsible for the management of County operations.

CHOICE Fund means the fund established by Section 10-261.1 of the Prince George's County Code to provide financial assistance for affordable housing.

Department means the Prince George's County Department of Housing and Community Development (DHCD).

Director means the Director of the Department of Housing and Community Development or the Director's designee.

Eligible person means a person or household whose income qualifies for participation in the MPDU Program.

Family means two or more persons sharing residency whose income and other financial resources support the family's maintenance.

Housing Authority means the Housing Authority of Prince George's County, Maryland.

Household means either a family or an individual.

Household Income means income from all sources for all permanent residents of a household who are 18 years or older. Household income determines eligibility to participate in the MPDU Program. Permanent residents are household members who have resided in the household for 12 consecutive months prior to the date of application. For income to be credited for underwriting purposes, it must have been received for 12 consecutive months prior to the date of application. Income from part-time employment, overtime, commissions, bonuses, investment income and other types of secondary income must be fully documented and demonstrated as stable and consistent. Three years tax returns are generally considered adequate documentation. Secondary income may be considered as an offset to short term installment debt, if the stability of the income is questionable.

Income means money derived from sources which include, but are not necessarily limited to, wages and salary from full and part-time employment; child support; alimony; interest on savings and checking accounts; dividends from stocks, bonds, and certificates of deposit; social security benefits; V.A.

benefits; overtime and bonus payments; unemployment insurance; pension/retirement payments; disability benefits; annuities or stipends; financial returns on real estate investments; or income from businesses or partnerships which are owned, associated with, or operated.

Income Limit means the maximum income a household can earn and remain eligible under the MPDU Program.

MPDU Agreement means the written agreement entered into between the applicant and the Director which contains information required to determine the applicant's compliance with the MPDU law or the alternative method(s) of compliance that the applicant shall utilize.

Moderately Priced Dwelling Unit (MPDU) means a dwelling unit which is constructed, sold, or rented under the requirements of Subtitle 13, Division 8.

Non-Profit Organization means an entity that is tax exempt or is eligible for tax exemption pursuant to Section 501(c)(3) of the Internal Revenue Code.

3. Eligibility Requirements

A. Participation in the MPDU Program requires the following:

- 1. Household must reside in Prince George's County.
- 2. Household must have a verifiable source of stable income.
- 3. Household must not earn more than 70% of median income for the Washington Metropolitan Area, adjusted for family size, as currently established by the U.S. Department of Housing and Urban Development.
- 4. Household must meet credit requirements of the applicable mortgage lender or rental management.
- 5. Household must intend to occupy the MPDU as a primary residence.

B. Certification to participate in the MPDU Program requires the following:

- 1. Household must submit an application to DHCD.
2. Household must authorize DHCD to verify income and information regarding program eligibility.
- C. A household determined to be eligible shall be placed on the eligibility list and issued a non-transferrable certificate valid for one year. This certificate shall

demonstrate eligibility to purchase or lease an MPDU and shall describe the bedroom size of the MPDU for which the household is eligible. The standards for bedroom size are the following:

<u>Certificate Size</u>	<u>Minimum Household Size</u>	<u>Maximum Household Size</u>
efficiency	1	1
1 bedroom	1	2
2 bedroom	2	4
3 bedroom	3	6
4 bedroom	4	8
5 bedroom	5	10
6 bedroom	6	12

D.DHCD will process applications on a first come first serve basis and will issue certificates to eligible applicants within 30 days. The eligibility list shall be maintained by bedroom size. The number of certificates issued shall not exceed ten times the number of units, by number of bedrooms, that is projected to become available during the following one-year period.

E.As MPDUs become available, certificate holders shall be notified by DHCD that MPDUs are available for purchase or lease. Once a household contracts to purchase or lease a MPDU, the certificate of eligibility must be surrendered to DHCD.

F.Eligibility certificates may be renewed upon the annual expiration provided that the household continues to meet eligibility criteria. To determine continued eligibility, an updated application must be submitted to DHCD.

4. Occupancy and Lease Requirements

A.Purchasers and renters of MPDUs are required to occupy their unit as their primary place of residence.

B.Leases for rented MPDUs shall be for a minimum term of one year. Upon expiration of the one year term, tenants may continue to lease on a month-to-month basis.

C.Owners of for-sale MPDUs, except the Housing Authority and participating non-profit corporations, are not permitted to vacate the MPDU and lease their unit to another party unless the owner can demonstrate sufficient cause to DHCD for a restriction waiver. Procedures for restriction waivers are the following:

1.MPDU owners must prove that the need to rent the MPDU unit is due to circumstances beyond their control and that extraordinary hardship would result if they did not

vacate and rent their unit.

Circumstances beyond their control include, but are not limited to:

- a. Temporary job transfers, including military assignments;
 - b. Institutional confinement for medical reasons; or
 - c. Loss of job or a primary income source.
2. A loss of appreciation resulting from the prohibition of renting a MPDU does not constitute a circumstance beyond owner control.
 3. Owners must certify that they will reoccupy their MPDU no later than 24 months from the date the unit is first rented.
 4. If DHCD denies an owner's request to rent temporarily, the owner has the right to appeal to the Chief Administrative Officer or designee. The appeal must be in writing and submitted within 30 days of the notice of denial.
- D. If a request to temporarily rent a MPDU is granted, the procedures to establish the maximum allowable rent are the following:
1. Owner must request a rental rate determination in writing from DHCD and provide information required by DHCD to set the maximum allowable rent.
 2. DHCD shall determine a rental rate which is equal to the fixed costs associated with maintaining the unit, including, but not necessarily limited to, principal and interest payments on the mortgage; real estate taxes; and association/condominium fees. Appropriate allowances will be made if the owner retains responsibility for payment of some or all of the utility charges. In such an event, a record of prior monthly utility expenses must be submitted.
- E. If a request to temporarily rent a MPDU is granted, leasing requirements are the following:

- 1.Owner must submit a copy of the lease agreement and the name of the managing agent to the DHCD.
- 2.Owner must rent to a household possessing a certificate of eligibility.

5. Sale of Moderately Priced Dwelling Units

A.MPDUs shall be sold in accordance with the requirements of Subtitle 13, Division 8. Maximum prices must be affordable to households with incomes between 50% and 70% of the area median income. The maximum sale price of MPDUs, including closing costs, sales commissions and fees, are the following:

- 1.Detached unit with 3 or more bedrooms and an area of 1,200 square feet \$94,527
- 2.Semi-detached with two or three bedrooms and an area of 1,000 square feet \$77,567
- 3. Townhouse/Fourplex with two or three bedrooms and 1,120 square feet \$74,537
- 4. Townhouse/Fourplex with four bedrooms and 1,200 square feet \$78,707
- 5. Two Story back-to-back townhouse with 2 or 3 bedrooms and 1,000 square feet \$60,519
- 6. Three Story back-to-back townhouse with 3 or 4 bedrooms and 1,400 square feet \$76,302
- 7. Piggyback townhouse with 2 or 3 bedrooms and 1,000 square feet \$60,519
- 8. Multi-family (non-elevator) with 1 or 2 bedrooms and 850 square feet \$58,405
- 9. Multi-family with 2 or 3 bedrooms and 850 square feet \$82,469

B.Addendum 1 presents the minimum specifications for MPDUs. If permitted by the Director, minimum specifications may be omitted provided that corresponding reductions are made to the maximum sale price.

C.The maximum price for a detached, semi-detached, and townhouse fourplex MPDU includes the cost of an unfinished basement. A basement cost may not be added to these units unless one or more of the following are satisfied:

- 1.The MPDUs are attached units and are dispersed among market rate units with basements.
- 2.The topography necessitates basements and the applicant can demonstrate such topographic requirements to the satisfaction of the Director.
- D.The costs included in the maximum sale price are the following:
 1. Construction loan expenses;
 - 2.Construction loan placement fee (estimated as 1.5% of the maximum sale price);
 - 3.Legal and closing costs (estimated as 3.5%)
 - 4.Builder's overhead expenses (estimated as 8%)
 - 5.Pre development costs and contingencies (5%); and
 - 6.Commission (estimated as 3.5%)
- E.Permitted adjustments to the maximum sale price are the following:
 - 1.Units larger than the listed square footage area may increase the price by an amount equal to half the square footage cost for the area in excess, based upon the unit type square footage costs as shown in Addendum 2.
 - 2.The price of units smaller than the listed square footage cost shall be decreased at an amount equal to half the square footage cost for the area less than the basic size, as shown in Addendum 2.
 - 3.If the construction loan interest rates exceed a prime rate of 12% plus two points, then adjustments will be based upon the prime interest rate plus two points at the time of offering.
 - 4.An end unit within a townhouse arrangement.
 - 5.Permanent financing fees which may include the seller's loan origination fee s/p oin

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- 6.If unfinished space for future bedrooms is provided. For each potential bedroom, the adjustment may equal the square foot cost for this area, reduced by ten dollars per square foot. The minimum area, height, lighting and ventilation must satisfy Code requirements. Expandable space must include the installation of HVAC duct work, rough electrical wiring, rough plumbing and insulation. Walkout basements will not be considered expandable space.
- 7.If water and sewer connection fees are not deferred.
- 8.If gas heating and air-conditioning is provided rather than an electric system.
- 9.If the unit is modified for handicapped accessibility as consented to by both buyer and seller or as required by law. The seller must obtain prior approval by the Director for this price adjustment prior to execution of sale contract.
- 10.If the applicant can demonstrate to the Director that additional and unusual costs are present which directly attribute to and benefit the MPDUs and which result from the following:
 - a.Unusual requirements imposed by a governmental unit as a condition of building permit approvals, such as road club fees.
 - b.Additional fees required as a condition of governmental financing programs.
 - c.Additional fees imposed by public utilities.
- 11.Documentation for such adjustments must be submitted to DHCD by the applicant. Approval by the Director is required prior to sale offerings.
- 12.Unusual costs due to marginal land, soils or topography shall not be included in price adjustments.
- 13.In exceptional cases approved by the Director where the applicant shows excessive costs associated with the

external design of the MPDU required to reduce negative impacts to market rate units. Such permitted adjustments, determined on a case by case basis, require the following:

- a.MPDUs interspersed among market rate units as shown on a site plan;
- b.Design elements for both MPDUs and market rate units are consistent, including brick facades, roofing material, window and door treatments, walkway materials and similar architectural elements; and
- c.Compensation based upon the cost difference between the required design elements for MPDUs and those design elements for which the applicant is presenting as exceptional cases. Cost estimates or construction bids must be submitted. Final determination of cost adjustments remains with DHCD.

The approved increases associated with architectural compatibility shall not exceed 10% of the maximum price exclusive of prior adjustments.

14.If State of Maryland Community Development Administration's Homeownership Development Program provides permanent financing to MPDU purchasers, then the applicant must exclude closing costs from the maximum sale price. The resulting price decrease must equal the actual closing costs paid by the MPDU purchaser.

15.The maximum price for MPDUs sold to the Housing Authority or to an eligible non-profit corporation shall be reduced by an amount equal to 3.5% of the maximum price to reflect the reduction in marketing costs.

16.The loan amount, but not the sale price, may be increased to cover the cost of amortizing the mortgage insurance premium on FHA and Housing Authority/FHA loans.

F.Pricing standards and regulations apply to all MPDUs. The maximum sale price is fixed once the MPDU agreement is signed by the Director.

G.The Director may waive restrictions on the resale price determination if the Director finds that the restrictions conflict with regulations of federal and state housing programs.

6. Rental of Moderately Priced Dwelling Units

A.Maximum rents on MPDUs must be affordable to households with

incomes between 50% and 70% of the area median income. No more than 30% of household income shall be paid for rent. Occupancy requirements are based upon the household size and the number of bedrooms per unit.

B. Maximum rents shall include non-structured parking. If utilities are paid by the tenant, then maximum rents shall include the established utility allowance. Maximum rents are the following:

	basic rent	utility allowance	maximum rent
Efficiency	\$ 489	\$ 86	\$ 575
One bedroom	616	86	702
Two bedrooms	671	130	801
Three bedrooms	736	167	903
Four bedrooms	802	201	1,003
Five bedrooms	849	234	1,083

C. The Director may adjust maximum rents from time to time in consideration of changes in income levels of low and moderate income households as well as construction and financing costs, market rate returns on rental properties, operating costs, vacancy rates, MPDU property values and other relevant information. Prior to adjusting maximum rents, the Director shall consult with representatives of the rental industry, employers and professional and civic groups to obtain market information and determine economic conditions.

D. MPDU rental units must first be offered to MPDU certificate holders. A thirty day priority marketing period shall be provided to households on the eligibility list. This 30 day period commences the date DHCD receives notice from the landlord that rental MPDUs are available.

E. The notice of availability of MPDUs must verify that occupancy shall occur no later than 90 days hence. Should occupancy fail to be permissible within the 90 day period, the 30 day notification of availability shall be considered invalid.

F. If MPDUs are not rented within the 30 day notice period and the landlord has documented good faith effort accepted by the Director, then the MPDUs may be marketed to MPDU eligible households from the general public.

G. Maximum rent levels may be increased by an amount not to exceed \$12.00 monthly for MPDUs with clothes washers and dryers.

H. Landlords shall submit copies of rent contracts to DHCD and include certifications regarding the payment of utilities. Copies of all rent increase notices and lease renewals

shall be submitted to DHCD.

- I. Maximum rents are to include all operating expenses and utilities. If any or all utilities are paid by the tenant, then the utility allowance shall be subtracted from the maximum rent.
- J. Operating expenses include all costs associated with the operation and maintenance of the rental property. If operating costs are the responsibility of the applicant, yet paid by the tenant, then maximum rents shall be adjusted downward by the Director in accordance with Subtitle 13, Division 8.
- K. The Housing Authority and eligible non-profit corporations are exempt from MPDU maximum rents and the requirements of this section.
- L. Bulk transfers or sales of all or some of the rental MPDUs in a subdivision within ten years after the original rental requires subsequent buyers to comply with the MPDU Program. MPDU requirements are controlled by covenants which run with the land. Subsequent buyers of bulk units must agree in writing to lease the MPDUs solely to income eligible households at the MPDU approved rates for the balance of the ten year period.

7. Right of First Refusal

- A. Thirty percent (30%) of MPDUs within a for-sale development shall be made available for purchase by the Housing Authority or non-profit organizations for use as rental units. The Applicant shall notify the Housing Authority and the Housing Authority's approved list of eligible non-profit organizations by certified mail of the availability of MPDUs once permits are finalized. The Housing Authority or non-profit organizations shall have 15 days from the receipt of notification to exercise their right of first refusal.
- B. Non-profit organizations must apply to DHCD for designation in order to to acquire MPDUs. DHCD will evaluate applications from non-profit organizations and make recommendations regarding approval by the Chief Administrative Officer. Evaluation criteria are the following:
 - 1. Administrative capacity of the non-profit, including staff resources and staff experience;
 - 2. Experience in leasing and managing properties;
 - 3. Capacity to provide support services to residents;

4. Ability to manage the units, including the submission of a management plan showing rent provisions and an operating pro forma; and
 5. Financial solvency of the non-profit.
- C. All non-profit organizations approved for acquisition of MPDUs will be placed on an eligibility list. Non-profit organizations not approved for eligibility will be notified by DHCD of the disapproval of their application. Said notice shall indicate the reasons for disapproval. Non-profit organizations not approved for eligibility may appeal to the Chief Administrative Officer within 15 days of the receipt of notification.
- D. The conditions for purchase of MPDUs by the Housing Authority or an eligible non-profit corporation are the following:
1. The Housing Authority shall have first right to buy all 30% of the MPDUs. If the Housing Authority buys less than 30%, an eligible non-profit corporation may buy any remaining MPDUs up to 30%.
 2. The Housing Authority must respond within 15 calendar days from receipt of the applicant's notice. Such response shall indicate intent to exercise the right of first refusal. The Housing Authority must settle on acquisition within 45 days following ratification of the sales contract. Any MPDUs not purchased in accordance with this subsection must subsequently be sold or rented to eligible households during the priority marketing period which shall be 60 days.
 3. The applicant shall notify eligible non-profit organizations of the availability of MPDUs upon receipt of the Housing Authority's notification that the acquisition option will not be fully exercised. Non-profits shall have 15 days from the receipt of notification to respond to the applicant. Such response shall indicate their intent to exercise their acquisition option.
 4. Should more than one eligible non-profit organization respond with an acquisition option, a single non-profit shall be selected by DHCD on a rotating base.

8. Alternative Methods of Compliance

- A. In exceptional cases, an applicant may be permitted to fulfill MPDU requirements by methods other than the construction of MPDUs within the subject project. The exceptions which may permit alternative methods of compliance are the following:

- 1.If the applicant's subject project proposes an indivisible package of services and facilities to all residents which would cost the MPDU households so much that its effect would render the MPDUs unaffordable to MPDU eligible households.
 - 2.The applicant's offer of an alternative method of compliance achieves significantly more MPDUs.
 - 3.The public benefit outweighs the benefit of constructing MPDUs, and acceptance of the applicant's offer will achieve the objective of providing a broad range of housing opportunities throughout the County.
 - 4.The MPDUs cannot be built in a manner compatible with market rate units.
 - 5.The number of MPDUs to be created at the applicant's subject project is not economically feasible.
- B.The applicant may seek alternative methods of compliance by applying to the Director at least 30 days prior to filing the subdivision application. Requests for alternative methods of compliance must contain the following:
- 1.Justification for the alternative method of compliance; where applicable, an accounting of proposed costs of services and facilities to be included in condominium/homeowner fees; and ancillary fees required above allowable rents; verification that the services and facilities cannot or should not be excluded from or reduced to MPDU households; and
 - 2.Proposed alternative method of compliance. The alternatives available to applicants are the following:
 - a.Conveyance of land to the Housing Authority in the same or adjoining planning area suitable for construction of significantly more MPDUs than could be attained at the subject project, or for sale by the County, the proceeds of which shall be deposited into the CHOICE Special Revenue Fund.
 - b.Contribution to the CHOICE Fund which can produce significantly more MPDUs or affordable housing for low and moderate income families.

c. Construction of significantly more MPDUs at one or more other sites in the same or an adjoining planning area than could be attained at the subject project.

d. Combination of any of the above alternatives that will result in the provision of significantly more MPDUs.

C. Requests for alternative methods of compliance must include the following:

1. Schedule committing to the completion of the alternative(s).

2. Description of the development status of the alternative(s), including completion of engineering designs, property title, subdivision plans, plats and other information deemed necessary by the Director to evaluate the proposed alternative.

3. Supporting documentation such as land appraisals and construction cost estimates as may be required by the Director.

4. Applicant's agreement that if market rate housing is to be developed at the subject project before MPDU alternatives are produced, then satisfactory financial indemnification is provided for the alternative(s) in the event of default.

5. If the alternative is a contribution to the CHOICE Fund, then the applicant must document inability to construct MPDU's to the Director's satisfaction.

D. The Director shall make findings of fact in recommending acceptance or rejection of alternative methods of compliance. The criteria upon and procedures by which the Director shall evaluate proposed alternatives are the following:

1. If the alternative is construction of MPDUs at a different site, the Director shall transmit the proposed alternative to the Planning Board and to the municipality in which the alternative site is located for recommendations. 30 days shall be provided for review and comment.

2. Findings of an indivisible amenities package, increased public benefit, significantly more MPDUs at alternative site(s) and inability to provide MPDUs at subject project as presented in Paragraph A of this Section.

3. The provision of units more affordable to low and moderate income households.

4. The provision of adequate public facilities and utilities at the alternative site.
5. The CHOICE fund contribution will produce significantly more MPDUs or produce an equal number of MPDUs at a price significantly more affordable to low and moderate income households.
- E. The Director shall make the above findings of fact before recommending the acceptance, rejection or modification of the proposed alternative. If the applicant does not agree with the Director's recommendation, the appeal procedures are the following:
 1. Within 15 days of receipt of the Director's recommendation, the applicant shall submit a written appeal to the Chief Administrative Officer.
 2. The Chief Administrative Officer shall issue a determination within 30 days of the receipt of the appeal request.
- F. The Director's recommendation, and if applicable, the CAO's determination regarding the appeal, will be presented to the County Executive and transmitted to the County Council. The final determination regarding the request for alternative compliance will be made through a joint signature letter from the County Executive and the Chairman of the County Council.

9. MPDU Agreement Procedures

- A. At the time of building permit application, all applicants who are required to provide MPDUs must file a written agreement with the Director which contains:
 1. The number and type of MPDUs;
 2. The identifying designation for each MPDU (e.g. subdivision, apartment or condominium name, location, address, lot and block number as applicable);
 3. The sale price for each MPDU; and
 4. A plan for the staging of construction of all dwellings must be arranged so that MPDUs are constructed along with or preceding other units.

- B. Except in Comprehensive Design Zones and the Transit District Overlay Zone, building permits shall not be issued for more than 75% of the total number of approved units in a subdivision until building permits have been issued for all MPDUs.
- C. Except in Comprehensive Design Zones and the Transit Overlay Zone, use and occupancy permits which would allow occupancy of more than 50% of the total number of approved non-MPDUs in the subdivision shall not be issued until use and occupancy permits have been issued for all MPDUs.
- D. MPDU agreement forms may be obtained from DHCD. After completing the agreement, the applicant must submit the agreement to the Director for approval. DHCD will verify that the agreement satisfies the terms of the MPDU law and these regulations.
- E. After the Director has approved the MPDU agreement, it will be forwarded to the Department of Environmental Resources (DER) for those units covered by the agreement provided that all other requirements necessary for the issuance of permits are satisfied.
- F. Any revisions to the agreement must be negotiated between the Director and the applicant.

10. Resale of Moderately Priced Dwelling Units

- A. The price at which MPDUs may be sold or rented is controlled. Before an MPDU is sold, the owner must notify DHCD in writing of the intent to sell and request a resale price determination. This notice shall include documentation for all adjustments as provided herein.
- B. MPDU price control shall be enforced through covenants recorded with the deed. Such covenants shall run for a period of ten years from the date of original sale or first rental.
- C. Except for foreclosure proceedings, MPDUs shall not be resold during the first ten years after the original sale for a price greater than the original selling price plus the allowable adjustments. The permitted adjustments in determining the maximum resale price by DHCD are the following:
 - 1. A percentage of the original sale price equal to the increase in the cost of living, as determined by the consumer price index for urban areas within the Washington D.C. Metropolitan Area as published by the Bureau of Labor Statistics.
 - 2. The fair market value of improvements made to the unit

between the date of original sale and date of resale. The fair market value of improvements includes the reasonable cost of materials, professional fees, contractor fees and permit fees. The fair market value of improvements does not include labor costs by the MPDU owner nor a reimbursement for the cost of tools and equipment used to install the improvements.

All improvements must be permanent in nature and directly add to the fair market value of the property. All improvements claimed must be documented with receipts. The owner must permit DHCD to inspect all claimed improvements.

3. A reasonable sales commission if there is no ratified contract of sale within the 60 day priority marketing period.
4. Component upgrades, normal maintenance and general repairs are not included in resale price determinations.
5. Personal property, including equipment, not considered an improvement by the DHCD, may be sold as an option, but cannot be added to the resale price determination. The subsequent buyer of an MPDU is under no obligation to purchase personal property or equipment. Household appliances originally purchased as an option or subsequently added by the original owner will be depreciated over a five-year period. Such depreciation will be subtracted from the resale price determination.
6. An allowance for closing costs which were not paid by the original purchaser, but will be paid by the original purchaser for the later buyer. Closing costs shall be treated as follows:
 - a. If closing costs were included in the original purchase from the developer, then the MPDU owner must pay all subsequent closing costs upon resale.
 - b. If the MPDU owner paid all closing costs required by government mortgage financing programs at the original purchase, then the subsequent buyer must pay closing costs upon resale.

- c. Prepaid items are not included in closing costs.
- D. DHCD will notify the owner, in writing, of the resale price determination within 21 days of receipt of the owner's request and required documentation. Items disapproved for adjustments to the resale price will be noted and explained.
- E. If a MPDU owner does not agree with the resale price determination, an appeal may be made to the Chief Administrative Officer. Such appeal must occur within 15 days from the date of receipt of the Director's decision and be submitted in writing. The appeal must document information which the MPDU owner asserts was not adequately considered in the resale price determination.
- F. If a seller does not agree with the determination made by DHCD as to the fair market value of eligible improvements, the seller has the right to have an appraisal conducted by a certified appraiser, the cost of which is borne by the seller. Upon submission of such appraisal, DHCD shall reconsider the resale price determination. The Director must send a final ruling on the resale price determination within 30 days of receipt of the appraisal. If the seller does not agree with the Director's ruling, then the seller has 15 days to submit a written appeal to the Chief Administrative Officer. The CAO shall respond to the appeal within 30 days.
- G. MPDU resales during the first ten years after the original purchase must be offered in accordance with the following procedures:
1. MPDUs shall be first offered to MPDU certificate holders or in accordance with Section 7 during a 60 day priority marketing period. This priority marketing period commences upon the receipt of the owner's notice of intent by DHCD. After the 60 day period expires, the MPDU may be offered for sale to an MPDU eligible buyer from the general public and a reasonable sales commission may be added to the resale price determination.
 2. MPDUs cannot be offered, advertised, or sold for a price greater than the maximum resale price determined by DHCD. The seller must forward an executed sales contract to the DHCD. The seller must also furnish DHCD with an executed copy of the settlement sheet.
 3. MPDUs may only be sold to eligible households who will occupy the unit as their primary place of residence for the balance of the existing control period. Purchase of an MPDU for speculative purposes is prohibited. The seller will be given a certificate of personal use

form which must be completed by the intended purchaser and returned to DHCD.

4. DHCD may inform MPDU certificate holders of the availability of resale units.

H. If an MPDU is resold after ten years from the original purchase, the restrictions on resale no longer apply. However, for the first sale of an MPDU during years eleven through fifteen following the original purchase, the seller must pay to the CHOICE Fund a percentage of acquisition proceeds received in excess of the amount which equals \$10,000 plus the sum total of the following:

- 1. The original selling price;
- 2. A percentage allowance of the unit's original selling price equal to the annual increase in the cost of living as determined by the consumer price index times the number of years the seller has owned the unit;
- 3. The fair market value of capital improvements made to the unit between the date of original sale and the date of resale;
- 4. A reasonable sales commission; and
- 5. Closing costs paid by the seller.

I. The required percentages for allowances for resales in years eleven through fifteen following the original purchase are the following:

- Year 11 - 50%
- Year 12 - 40%
- Year 13 - 30%
- Year 14 - 20%
- Year 15 - 10%

J. The parties shall execute an affidavit that the price and terms of the sale represented by the sales agreement are bona fide and accurately reflect the entire transaction between the parties so that the full amount required is paid to the CHOICE fund. When the Director finds that the amount due the fund is accurate and the County receives the amount due, DHCD shall terminate MPDU controls. DHCD shall execute and file a release of the restrictive covenants in the land records for Prince George's County.

11. Foreclosures

A. Prior to the initiation of foreclosure proceedings by a lending institution holding a note secured by a mortgage or deed of trust, the County shall have the right to cure

the default and stay acceleration of the mortgage note.

- B.If a MPDU is sold in foreclosure, then the Director shall terminate MPDU controls. The Director shall execute and file a release of the restrictive covenants once all proceeds of the sale, if any, are paid to the CHOICE Fund as required herein.
- C.If a foreclosure occurs during the first ten years after the original purchase, any price paid that exceeds the resale price determination, less reasonable costs associated with the foreclosure, must be paid into the CHOICE fund.
- D.If a foreclosure occurs after the first ten years and before the end of the fifteenth year following the original purchase or rental, then repayment from proceeds in accordance with Section 9, Paragraph H is required.
- E.The Director may negotiate repayment requirements with the intent that payments to the CHOICE Fund are from excess proceeds from the MPDU sale. Should any terms contained herein conflict with Maryland law, it is deemed that Maryland law shall control.

Addendum 1

Minimum Specifications for MPDUs

1. All MPDUs must include air conditioning. Square footage costs are based on a heat pump system for heating and air conditioning. DHCD will adjust sale price for other HVAC systems.
2. A kitchen garbage disposal (1/2 HP) is required for all units.
3. Plumbing and electrical rough-in for a dishwasher is required for all units.
4. All MPDUs must include a fire prevention sprinkler system.
5. Plumbing rough-in: To qualify for a price adjustment, the installation of all parts of the plumbing system that can be completed prior to the installation of fixtures, appliances or equipment must be provided. This includes drainage, water supply, vent piping and necessary supports and backboards. All piping is to be tied-in and capped off after penetrating the wall or floor surface. Duct work for future installation of exhaust fans must be installed. Rough-in must pass air or water tests required by BOCA or WSSC Codes.
6. Electrical rough-in: Wiring is to be installed from service panel box to the location of item to be served (i.e. appliance, equipment or outlet). Wiring is to run to the panel box and terminate at an outlet or junction box at the location of the item to be served.
7. All MPDUs must have a refrigerator, range and range hood vented to the exterior, rough-in connection for a dishwasher, complete electrical and plumbing connections for clothes washer and dryer and a clothes dryer exhaust duct.

Addendum 1, cont.

Minimum Unit Specifications

	<u>Bedrooms</u>	<u>Bathrooms</u>	<u>Basement</u>
Detached Unit	3 or more	1.5	yes
Semi-detached	2 or 3	1.5	yes
Townhouse/ Fourplex	2 or 3	1.5	yes
Townhouse/ Fourplex	4	2	yes
Townhouse Piggyback	1 to 3	1.5	no
Townhouse Back to Back	1 or 2	1.5	no
Townhouse Back to Back	3 or 4	1.5	no
Low Rise Apartment	1 to 3	1	no
High Rise	1 to 3	1	no

Addendum 2

MPDU Pricing Standards

	Basic Unit Size	Square Ft. Cost
Single-family detached	1,200 sq ft	\$43.30
Semi-detached	1,000 sq ft	40.25
Townhouse/Fourplex	1,120 sq ft	37.20
Townhouse Piggyback	1,000 sq ft	32.90
Townhouse Back to Back with 1-2 bedrooms	1,000 sq ft	32.90
Townhouse Back to Back With 3-4 bedrooms	1,400 sq ft	31.15
Low Rise Apartments	850 sq ft	39.90
High Rise	850 sq ft	63.20

Adjustments for rough-in bathrooms are \$850 for a full bathroom and \$600 for a powder room. Adjustments for completed bathrooms above the minimum required are \$2,500 for a full bathroom and \$1,800 for a powder room.

Sample
For Sale of MPDU after Control Period

Sale during the Eleventh Year following the original purchase.
Required percentage allowance to the CHOICE fund is 50%.

Gross sale price	\$216,000
Original sale price	-78,000
COLA @ 4% per annum	-31,200
Capital improvements	-5,000
Sales commission	-12,960
CHOICE fund adjustment	-10,000
Closing costs	<u>-3,900</u>
Net Sales Price	74,940
50% allowance	<u>37,470</u>
Amount to Owner:	\$ 178,530