DENVER
THE MILE HIGH CITY

Office of Economic Development

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2014 Inclusionary Housing Report

Introduction

The Inclusionary Housing Ordinance ("IHO") was enacted by Denver City Council in 2002 and is the Denver Office of Economic Development's ("OED") primary tool to facilitate home-ownership opportunities for people earning between 50% and 95% of area median income (AMI).

Denver strives for housing balance to promote community vitality and enhance neighborhood diversity. In doing so, we recognize that mixed income, mixed use developments are essential for people to have the opportunity to live in the communities they work and serve. Home-ownership opportunities provided by the IHO program are a key component in establishing that balance.

Unfortunately, due to the decline in construction of large, for-sale residential developments and the exercise of the cash in lieu of construction provision, only 16 IHO program units have been created over the last 5 years. However, new affordable housing units are coming online. OED has utilized the cash in lieu revenues to help support the construction of 447 affordable housing units over the last two years. The cash in lieu revenues are an inconsistent source of financing, consequently, the OED is strategically leveraging these funds to the greatest extent possible and only for projects that clearly align with the City's policy priorities.

Finally, the OED acknowledges that the IHO is an imperfect program that could benefit from a fundamental modification. We greatly appreciate the work done this last year by City Council, specifically Councilwoman Robin Kniech, and the housing community to help improve the IHO. We look forward to the final recommendations that come from this effort.

Inclusionary Housing Ordinance Program Requirements

The IHO requires all newly constructed for sale housing development projects (detached, attached or multi-family) of 30 or more units to allocate 10% of the units as affordable.

The IHO defines two types of residential construction products, high cost structures and standard structures. High cost structures are defined as developments which are: (a) greater than three stories, (b) elevators are provided, and (c) over 60% of the parking is structured. High cost structure units must be affordable to households earning a minimum of 50% AMI and not to exceed 95% AMI, depending on household size. Standard structures are those that are less than three stories, and do not have elevators or structured parking. Standard structure units must be affordable to households earning a minimum of 50% AMI and not to exceed 80% AMI.

2014 Area Median Incomes (AMI)				
	Household Size			
	1 Person	**2 Persons**	**3 Persons**	**4 Persons**
50% AMI	$26,850	$30,700	$34,550	$38,350
80% AMI	$42,950	$49,100	$55,250	$61,350
95% AMI	$51,015	$58,330	$65,645	$72,865

IHO Alternatives

The OED Director has the ability to approve a compliance alterative in lieu of building the required affordable units. The alternative compliance options include:

A. Building additional units at one or more sites in the same or an adjoining statistical neighborhood; or

B. Building additional units at one or more sites within five-tenths (.5) miles of a light rail or commuter rail station; or

C. Contributing to the Special Revenue Fund an amount equal to fifty percent (50%) of the price per affordable unit not provided. (*Please see IHO Cash In Lieu section.*)

Covenant

A restrictive covenant (the "Covenant") is placed on each affordable unit provided. The Covenant includes, at a minimum, information that the property value, use and resale are restricted and sets forth a control period, maximum purchase price calculation, eligibility requirements, penalties for violation and any other restriction provided per the IHO or the IHO Rules and Regulations.

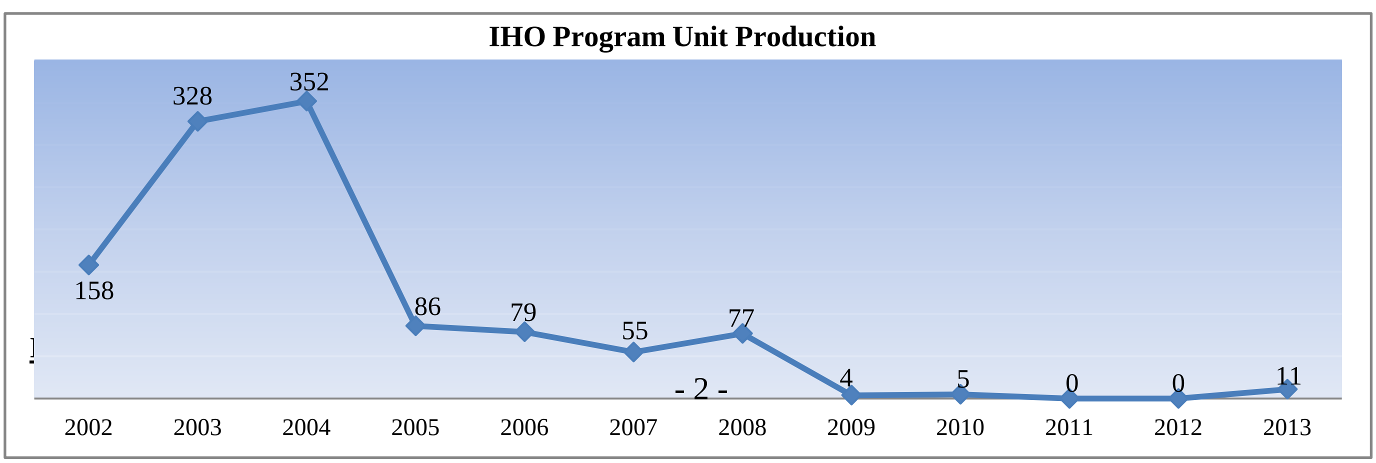
Each homeowner is provided a copy of the Covenant prior to purchase and during the income verification process. At closing, each homeowner executes a Memorandum of Acceptance agreeing to the terms and conditions contained in the Covenant.

The Covenant specifically requires that the affordable unit must be the buyer's primary residence. A primary residence is defined as, "the home or place in which one's habitation is fixed and to which one, whenever he/she is absent, has the present intention of returning after a departure or absence therefrom." This does not preclude the sharing of the unit – i.e. a roommate situation; but does specifically require the homeowner to be present.

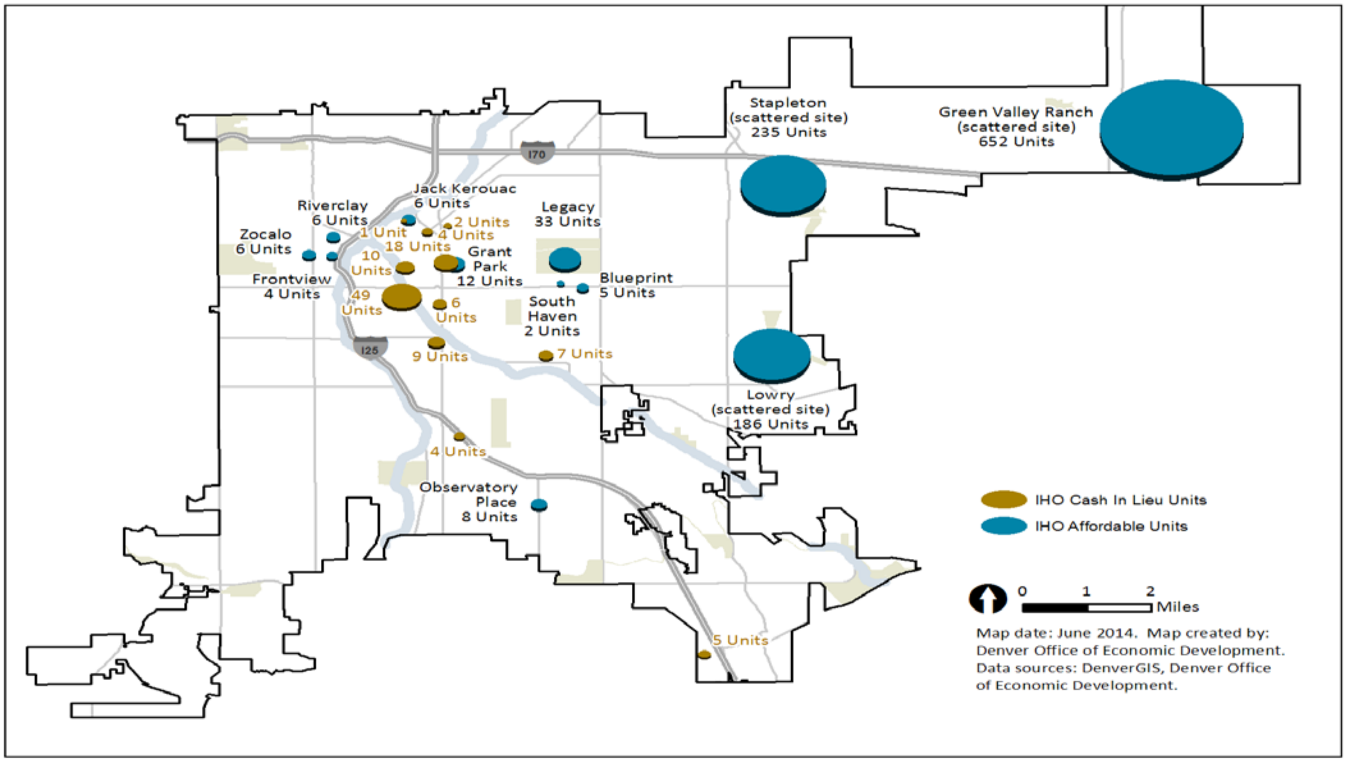
Production

Projects can be classified as "Non-Large Scale" or "Large Scale". Large Scale developments are projects that have a contractual agreement with the City to provide at least 200 affordable for sale housing units as part of a master planned development. They are allowed to participate in the IHO and receive incentives. Stapleton, Lowry Redevelopment and Green Valley Ranch are examples of Large Scale Developments. Non-Large Scale developments are projects that build 30 or more for sale units and provide 10% of the units as affordable.

IHO production has decreased significantly since 2004 due to a decrease in new Large Scale residential developments and the decision of developers to exercise the IHO opt-out provision by paying cash in lieu of unit construction.



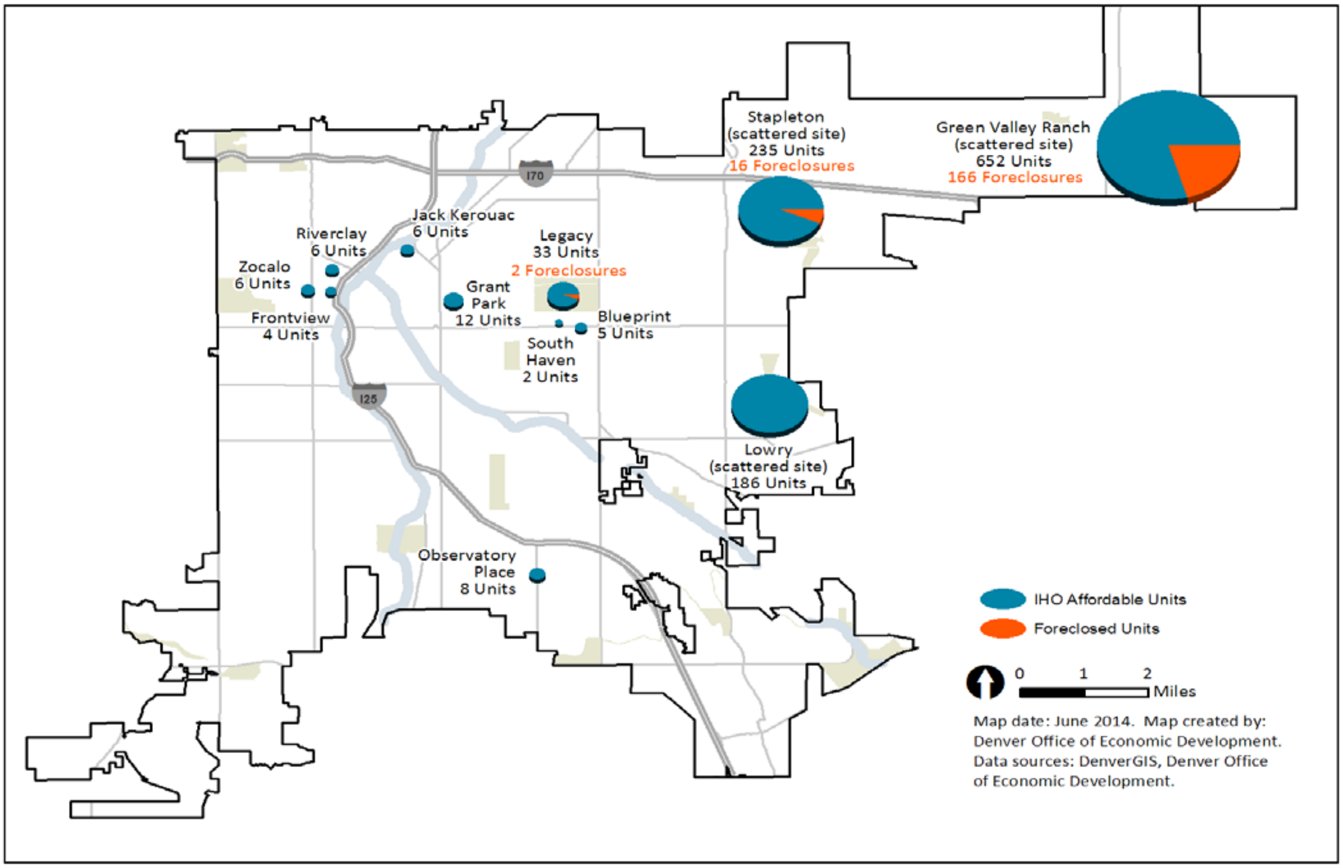
The majority of IHO units are located in Large Scale developments in the eastern portion of the city. Developments that paid cash in lieu of unit construction are mainly concentrated in or near the Downtown area.

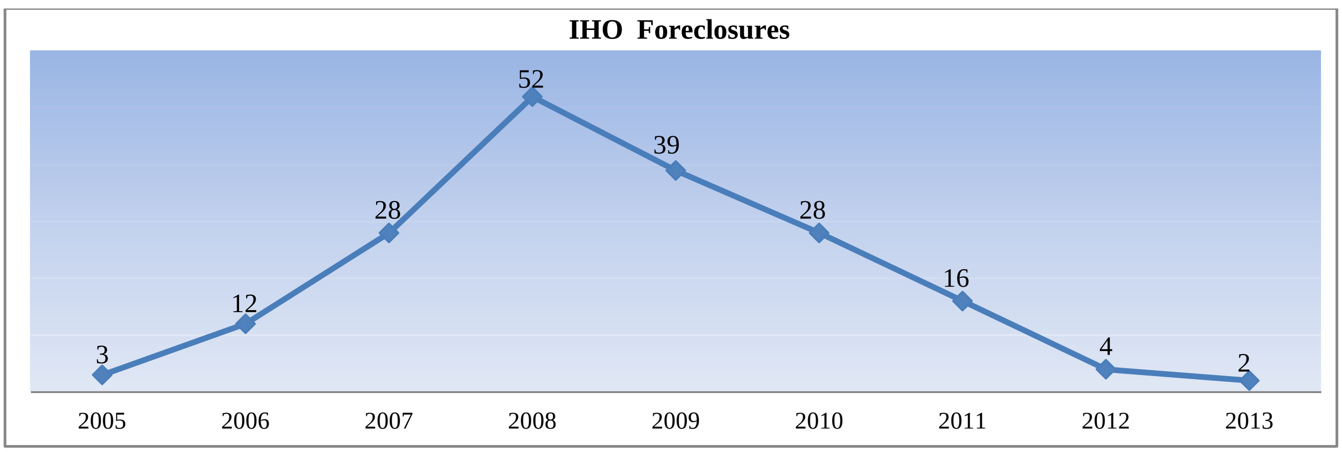


Foreclosures

IHO foreclosures crested, along with market rate units, from 2007 – 2009 and were disproportionately concentrated in the Large-Scale developments.

Program	Units Produced	Foreclosures	Foreclosure Rate	Remaining AH Units
Non-Large Scale	82	2	2.44%	80
Large Scale	1073	183	17.05%	890
Green Valley Ranch	*652*	*166*	*25.46%*	*486*
Lowry Redevelopment	*186*	*1*	*0.54%*	*185*
Stapleton	*235*	*16*	*6.81%*	*219*
Total	**1155**	**185**	**16.02%**	**970**





Foreclosure Prevention

The OED has historically provided Department of Housing and Urban Development Community Development Block Grants to various non-profit agencies to provide housing and foreclosure counseling to homeowners. These partners are:

- Brothers Redevelopment, Inc.
- Colorado Housing Assistance Corporation
- Del Norte Neighborhood Development Corporation

- NEWSED Community Development Corporation
- Northeast Denver Housing Center

Hardship Exemptions

In an effort to assist affordable homeowners, the OED created a Hardship Exemption in 2008 and expanded its definition in 2013. This exemption allows affordable homeowners a one-time rental exemption under certain circumstances. These circumstances include:

- Job or military transfer more than sixty (60) miles from Denver City and County limits
- Divorce resulting in an inability to pay the mortgage
- Change in household size
- Job loss as a result of firing or layoff
- Major illness within the household resulting in financial hardship
- Relocation to obtain medical care outside the Denver metropolitan area
- Inability to sell after good faith marketing effort

All rental exemption requests must be supported by applicable documentation and are granted solely at the discretion of the OED Director.

IHO Special Revenue Fund

Funding for the IHO comes from the Housing Incentive Program Fund (the "Fund") administered by the OED. The Fund was capitalized with $2,150,000 in City General funds between 2003 and 2005. It collects revenue in the form of cash in lieu fees, penalties, investment income and transfers.

IHO Rebates/Incentives

The Fund pays incentive rebates and administrative expenses associated with the IHO. Incentive rebates are paid to developers who produce affordable units in accordance with the IHO. The rebates are in the amount of $5,500 per affordable unit provided, with a maximum of $250,000 per development, per year. The City is not obligated to pay rebates if the Fund does not have enough capital in its corpus to pay.

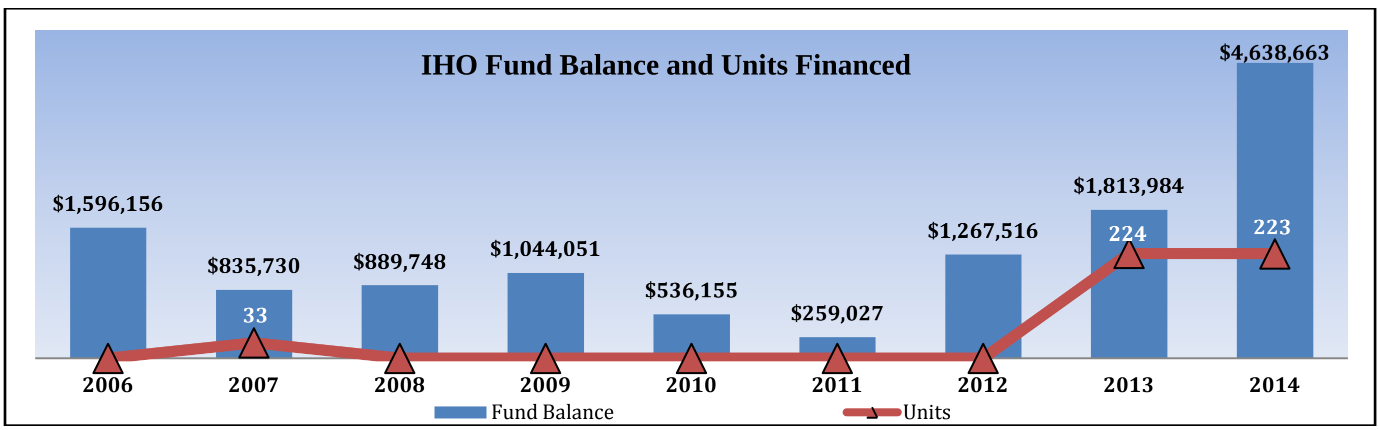
Development	Year	Amount
Oakwood Homes	2003 - 2005	$750,000.00
Forest City - Stapleton	2003 - 2014	$933,500.00
Lowry Redevelopment	2005-2012	$838,000.00
Jack Kerouac Lofts	2006	$30,000.00
Wonderland	2007	$27,500.00
Observatory	2007 - 2010	$44,000.00
Grant Park	2009	$60,500.00
Zocalo	2007 - 2009	$66,000.00
Total Rebates/Incentives:		**$2,749,500.00**

IHO Cash In Lieu

Development	Year	Amount
Benjamin Moore Lofts	2005	$160,000.00
Museum Residences	2005	$434,471.00
Manor Homes @ Platte Park	2007	$271,380.00
Zi Lofts and Town Homes	2007 - 2008	$309,510.00
Ajax Lofts	2008	$62,306.00
Watermark	2008	$590,773.00
Spire	2010 - 2013	$3,008,602.00
Four Seasons	2011	$942,445.00
Montrechez	2011 - 2013	$531,774.00
One Lincoln Park	2012 - 2014	$500,000.00
250 Columbine	2014	$836,660.00
Total Cash In Lieu:		**$7,647,921.00**

IHO Loans & Grants

Amounts in the Housing Incentive Program Fund exceeding adequate funding for the subsequent fiscal year may be expended to preserve or create affordable housing. Since 2013, the OED has utilized the fund to create affordable housing opportunities in areas and at income levels that conform to OED’s stated housing priorities. Consequently, over a two year period the fund has been leveraged to help produce 447 units.



Development	Year	Amount
Mercy Housing, Inc.	2007	$312,000.00
18th & Chestnut	2013	$950,000.00
Park Hill Village	2013	$286,757.14
2300 Welton	2014	$920,000.00
Total Loan and Grants		**$2,468,757.14**

IHO Fund Balance Detail:

IHO Special Revenue Fund	
Revenues:	
Cash In Lieu	$7,647,921.00
Fund Transfers	$2,150,000.00
Investment Income	$334,929.27
Interest Received	$112,786.98
IHO Penalties & Fees	$3,926.00
Total Revenues:	**$10,249,563.25**
Expenses & Payments	
Rebates/Incentives	$2,749,500.00
Grants / Loans	$2,468,757.14
Administrative Expenses	$392,642.80
Total Expenditures:	**$5,610,899.94**
Current Balance:	**$4,638,663.31**

Changes to the Inclusionary Housing Ordinance Program

2013 IHO Amendments

In 2013, Councilwoman Robin Kniech spearheaded a 2 phased initiative to study and revise the Inclusionary Housing Ordinance. Phase I was completed in June 2013, with City Council adoption of the following ordinance changes:

1. Compulsory housing counseling for prospective IHO homeowners.
2. Renamed covenants to help notify the City of potential covenant restricted foreclosures
3. Expanded the existing “Hardship Conditions” to allow the owner of a restricted property to rent that property under special conditions.
4. Allows the sale of an affordable unit to an approved non-profit entity;
5. Allows homeowners to sell their property at increased AMI levels the longer they own their unit.
6. Removes geographic limitations on where proceeds from the Inclusionary Housing Special Revenue Fund can be invested.

Phase II of the IHO revision is currently underway and promises to offer a fundamental change in the way the IHO is targeted and administered. Formal recommendations will be offered to the Denver City Council in July 2014.

Stapleton Development Amendments

In March 2014 the Stapleton Development Agreement was modified to be made more consistent with Inclusionary Housing Ordinance changes passed in 2013. The Stapleton changes were as follows:

1. Renamed the Covenant to “Notice of Voidable Title Transfer and Master Covenant for the Occupancy and Resale of For Sale Units”;
2. Covenant control period was reduced from thirty (30) years to (15) years;

3. Graduated eligible incomes for prospective owners, depending on length of ownership;
4. Approve sale of a unit to a non-profit 501(c)(3) partner, governmental or quasi-governmental entity; and
5. Rental of the unit through a City approved partner with rent and eligible incomes not to exceed 65% area median income, depending on unit type.

Next Steps

As we await the formal revision of the IHO, we are working with City Council and our Denver housing community stakeholders to establish a more robust housing program that will create an even greater number of new affordable housing units, both rental and for-sale.

With regard to the Inclusionary Housing program, the OED will undergo a third-party administrative analysis to improve the program's effectiveness. Additionally, there is greater consideration of an IHO "Alternative Satisfaction" policy that would provide greater flexibility in allowing developers to partner with each other to produce IHO units as an alternative to exercising the cash-in lieu provision. Analysis and organizational planning for that policy is underway.

In the coming months, the OED and the Mayor's Housing Advisory Committee will release the Denver 5-Year Housing Plan. The plan will be a comprehensive statement of the City's housing priorities and goals. The plan will also provide the context for how the OED administers the future IHO program.