



1 N Charles St, Ste 200
Baltimore, MD 21201
(410) 625-9409
fax (410) 625-9423
www.publicjustice.org

September 8, 2016

Chairman Carl Stokes
Committee on Taxation, Budget, & Economic Development
Baltimore City Council
100 North Holiday Street
Baltimore, MD 21202

Dear Chairman Stokes and Members of the Committee:

John Nethercut
Executive Director

Debra Gardner
Legal Director

ATTORNEYS

Monisha Cherayil
Sally Dworak-Fisher
Sulma Guzman
Matthew Hill
Anthony May
John Pollock
Russell R. Reno, Jr.
Camilla Roberson
David Rodwin
Zafar S. Shah

Renuka Rege, J.D.

PARALEGALS

Levern Blackmon
Certified Paralegal

Jonathan Colarelli
Ralikh Hayes
Hannah Walsh

Brenda Midkiff
Office Manager

Jennifer Pelton, CFRE
Development Director

Erin Brock
Development Manager

Rebecca Reynolds
Development Associate

Thank you for the opportunity to testify on behalf of the Public Justice Center, the PORT3 Coalition, and Build Up Baltimore about our concerns about the Port Covington Community Benefits Agreement presented today.

When we last gathered before the Council on August 23, all of the coalitions present today emphasized – and the Committee agreed – on several fundamental demands with respect to affordable housing at Port Covington: it must be mandated rather than optional, it must comprise more than 10% of the development, and it must serve households at all income levels – including the poorest – in an inclusionary way.

We believe that, as summarized for the public,¹ the CBA addresses those fundamental, broadly-supported demands only in a superficial way. We have five specific concerns.

First, the CBA adopts and maintains a gaping loophole within Sagamore’s original Memorandum of Understanding with the City: although the developer would have a nominal obligation to make 20% of its units affordable, it would be explicitly permitted to buy its way out of this obligation by paying a trivial fee. Under the MOU, even as amended by the CBA, the developer can opt to make a payment in lieu of \$30,000 to \$60,000 for every affordable housing unit it is supposed to develop but fails to develop. However, the developer can offset this payment in lieu by the entire cost of any affordable units it does develop, calculated at around \$172,000 each, several times greater than the payments in lieu.² This is a basic flaw in the original MOU, and the CBA leaves it intact.

The fallout of all this is that, even though Sagamore has agreed to a “requirement” of 20% affordable housing, the developer and its successors could – consistent with the CBA – make only about 5% of its proposed 5,300

¹ The CBA has not to my knowledge been made available to the public in full.

² See Memorandum of Understanding – Inclusionary Housing at Port Covington (April 20, 2016), Paragraph 6(a).

units affordable to families at 80% of AMI. Moreover, for the first phases of development, Sagamore could create only a fraction of the promised number of affordable units while paying nothing at all into the payment-in-lieu fund.³

Second, 85% of the CBA's affordable housing set-aside is for households making 60 to 80% of Area Median Income (AMI), approximately \$52,000 to \$69,000 for a family of four.⁴ More than half of Baltimore's households make substantially less than this amount.⁵ **The CBA makes no more than 10% of the set-aside – or 2% of all units in the development – affordable to the quarter of our City's residents who less than 30% of AMI, or \$26,000.⁶ Even this 2% figure is contingent on the project's receipt of additional public subsidy, in the form of project-based vouchers, indicating that the developer is unwilling to invest its own anticipated profits or a portion of the TIF towards meeting the City's greatest housing need.**

Third, under the CBA, up to 40% of the set aside will be off site, and could be concentrated in areas that are already poor, worsening income and racial segregation in our City. Conversely, only 12% of units on site have to be affordable – barely above the 10% figure that Committee found unacceptable.

Fourth, the CBA does nothing to ensure family friendly development. In its original housing MOU with the City, Sagamore indicated that about 60% of the residences to be constructed at Port Covington would be 1 bedroom units and efficiencies. The CBA does not commit the developer to altering this mix, or making any of its affordable units 2 or 3 bedrooms. **Therefore, because it is cheaper to construct smaller units, it is likely that any affordable housing the**

³ Example: For its first 1,000 units, Sagamore has pursuant to negotiations agreed to make 20% - or 200 – affordable to households earning 80% AMI or less. If it only developed 50 of the 200 affordable units, it would theoretically have to pay a fee of \$40,000 per unit for the 150 units not constructed, or \$6 million. However, Sagamore would be permitted to offset that fee by the cost of each of the 50 units it did construct, which the MOU calculates at \$172,734. Sagamore's total offset in this scenario is over \$8 million, and thus it would not have to contribute *any* payment in lieu to the City at all, even though it only made 5% of its units affordable, instead of 20%. Only once the development reaches around 5,000 total units would the payments in lieu exceed the offset that Sagamore could claim if it made only 5% of units affordable.

⁴ Area median income is \$86,700. See HUD FY 2016 Income Limits Documentation System, <https://www.huduser.gov/portal/datasets/il/il2016/2016summary.odn>

⁵ Median household income in Baltimore City is \$41,819. See U.S. Census Bureau, Baltimore City, Maryland, <http://www.census.gov/quickfacts/table/HSG445214/24510>.

⁶ Nearly a quarter of Baltimore City households live in poverty, with the poverty level defined as \$24,300 for a family of four. See U.S. Census Bureau, Baltimore City, Maryland, <http://www.census.gov/quickfacts/table/HSG445214/24510>.

developer does build will accommodate only single adults and fail to serve the City's poor and working class families.

Finally, the developer has not committed through the CBA to distribute affordable housing units throughout the Port Covington development, even though we know that this can and has been done in other mixed income projects. **Therefore, there is a real possibility – particularly because it represents the path of least resistance – that the developer could concentrate any affordable housing units created in only one or two buildings at the site.** This is not a model of integrated development that the City or Council should endorse.

PORT3 and Build Up Baltimore appreciated the opportunity to negotiate in good faith with Sagamore, in the presence of Committee members, on the issue of affordable housing. We acknowledge that the CBA presented today improves on Sagamore's original MOU with the City in certain respects. Ultimately, however, the agreement falls short of offering meaningful commitments on the issue of housing, as needed to justify the proposed \$660 million public investment in the project. We look forward to working with the Committee to achieve a better deal for the people of Baltimore.

Sincerely,

A handwritten signature in black ink, appearing to read "Monisha Cherayil", written in a cursive style.

Monisha Cherayil