


CITY OF MIAMI
OFFICE OF ZONING
MEMORANDUM

TO: George Mensah, Director, Department of Housing & Community Development

FROM: Joseph A. Ruiz, Esq., Zoning Director // Administrator 

DATE: January 27, 2020

RE: Zoning Interpretation 2020-0001 – Affordable Housing

This Zoning Interpretation is issued to clarify and interpret the definition of “Affordable Housing” set forth in Article 1, Section 1.2 of the Miami 21 Zoning Code (“Code”). Specifically, clarification is required in order to determine whether certain Dwelling Units with rents subsidized by United States Department of Housing and Urban Development (“HUD”) programs intended for individuals whose income is at or below 60 percent of the Area Median Income (“AMI”), such as the Section 8 Project-Based Voucher Program, should be considered Affordable Housing as defined by the Code.

Article 1, Section 1.2 of the Code defines “Affordable Housing” as:

A Dwelling Unit, owner-occupied and/or rental housing with a purchase cost, value, or monthly rental, as applicable, equal to or less than the amounts established by the applicable standards for those individuals whose income is at or below 60 percent of Area Median Income as published by the United States Department of Housing and Urban Development.

The definition is broad and, as stated above, includes owner-occupied and/or rental housing with a “purchase cost, *value*, or monthly rental” equal to or less than the amounts established by the applicable HUD standards for individuals whose income is at or below 60 percent AMI. (emphasis added). The inclusion of the word “value” implies the out of pocket expense to a qualifying individual that must be equal to or less than the amounts established by the applicable standards that may be applied to their monthly rental or purchase cost. This is because the Code does not regulate rents or purchase price; it establishes a required level of affordability for a Dwelling Unit that is tied to AMI.

For instance, certain HUD programs, such as the Section 8 Project-Based Voucher Program, subsidizes the difference between the tenant cost and the total rent for a Dwelling Unit, allowing a landlord to receive higher monthly rents than are otherwise permitted under other affordable housing programs, absent the subsidy (*see* 24 CFR 983). Consequently, in those cases, the word “value” in the Affordable Housing definition refers to the value received by the tenant, not the actual rent received by the landlord. Therefore, Dwelling Units subsidized by HUD programs, such as the Section 8 Project-Based Voucher program, so long as the out of pocket expense to a qualifying individual is equal to or less than the amounts established by the applicable standards, those Dwelling Units shall be interpreted to meet the Miami 21 definition of “Affordable Housing”.

Lastly, Affordable Housing Developments with Dwelling Units subsidized by HUD programs, which are eligible for special benefits described in the Code would, as with other qualifying Affordable Housing Developments, be required to comply with all applicable rules and regulations governing any additional development incentives, including a recorded covenant running with the land acceptable to the City of Miami, as well as the minimum number of Affordable Housing Dwelling Units required to be provided within a proposed development (*see* Article 3, Section 3.15 of the Code).

This interpretation shall be final unless appealed to the Planning, Zoning, and Appeals Board within fifteen (15) calendar days of the publication of the interpretation on the City's official website.

Cc: Honorable Mayor and Commissioners
Emilio T. Gonzalez, City Manager
Joe Napoli, Deputy City Manager
Nzeribe Ihekweba, PhD, PE, Assistant City Manager
Victoria Méndez, Esq., City Attorney
Francisco J. Garcia, Director, Planning Department
Jeremy Calleros Gauger, Deputy Director, Department of Planning
Tamara Frost, Deputy Director, Office of Zoning
VonCarol Kinchens, Director, Neighborhood Enhancement Team
Olga Zamora, Chief of Hearing Boards