

**From:** Benjamin L Hall Jr [mailto:buzziimv@comcast.net]  
**Sent:** Thursday, June 27, 2019 7:55 PM  
**To:** Christine Flynn  
**Subject:** Comments on Draft Housing Policy vers 13E

Dear Christine and MV Commissioners:

I am writing regarding the submission of comments on the Draft Housing Policy version 13E and denoted as "Final" presented at a public hearing on Thursday June 20, 2019 which I attended. I was asked to provide comments in writing, although I gave most of them orally at the hearing. I understand the hearings are electronically recorded and so all of my orally presented comments should be readily available for the record. We are on the verge of the summer season which is one of the busiest times of the year for any island business owner. The commissioners should recognize that. To ask me to spend further time to put all of my comments in writing does impose a burden, but I reluctantly agreed to try to put something together. The record was left open for only one week regarding the Draft Housing Policy so my thoughts are attached.

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Martha's Vineyard Commission  
P.O. Box 1447  
Oak Bluffs, MA 02557

June 27, 2019

Re: MVC Proposed Revised Policy for Affordable Housing Exactions during DRI review Draft  
6.19.19 v. 13E

Dear Commissioners:

I write regarding my concerns with the referenced draft of the MVC policy for DRI Review on Housing. I come from a family with continual island connections from the both sets of the competing claims to being the first European settlers on the island. That certainly does not give any more weight to my thoughts than anyone else, but I would hope that the generational experiences passed on to me along with my own should well serve this body in considering how it should handle the delicate and important topic of seeking a fair way to measure if and how development creates a need for affordable housing in the capitalist system of which we are but a microcosm.

I attended the public hearing on Thursday June 20, 2019 and was asked to submit my comments in writing for review by the MVC. Respectfully, my oral comments included, more or less, the highlights of my concerns. These should have been picked up by the electronic recording of the hearing and should, respectfully, be simply entered into the record. Given my enthusiasm that the MVC should produce a practical, workable, and reasonably balanced policy, I've taken more time to try to cover in writing my concerns. But, given the difficult time of year in which the MVC is considering this change (on the eve of the summer season), I'm doing my best to cover all the points I made orally, so I refer you to the oral comments I made on the record for the fuller measure. These should be readily available from the electronic recordings of all hearings presumably maintained by the MVC.

My primary concern and general comment is that the new proposed housing policy is reaching a putative level as it imposes much higher levels of cost on all applicants that small business owners and long time family landowners on the Vineyard (who are typically long time or generational residents) can reasonably afford to provide. It should be the goal of all of us and the MVC not to price our local population out of their ability to improve their lot. Loving to live here must come with ability to afford the costs of living in general. Sending a child to college costs nearly \$340,000 at this time. If one owned a single family building lot of a very modest size, one would have to seel just to educate one's child! My fear is that only extremely well-funded large organizations that have little or no connection to the island would be able to afford the demands of the policy. Please consider this in trying to craft a reasonable policy that has some connection to economic reality - not only for housing needs but also for our existing owner base.

My individual comments follow:

1. PROPOSED: Residential DRIs Section 2A.4 Prior Divisions/Subdivisions: Lots created under prior divisions (including prior Form A divisions and prior divisions of farmland treated as a DRI) or prior subdivisions (regardless of whether they have been previously reviewed as a DRI) will be included in the calculation of the total number of Buildable Lots.6 (This section does not apply to divisions or subdivisions created before 1974, but it does apply to divisions and subdivisions subsequent to that date even if the original division or subdivision occurred prior to 1974.)

*Comments: Why? I can appreciate the desire to establish some "anti-segmentation" guidelines to prevent abuses where thresholds are not met and DRI review is avoided, with the intention to return within short order for further development, the combination of which would have caused a DRI trigger. But to apply this just to the Affordable Housing guidelines doesn't make sense. It is punitive. Where the prior division met or fell under DRI triggering guidelines, then only the new development is subject to review and it is unfair to reach back in time and apply retroactively, the new policy. The benefits found previously were achieved and only the new development proposal is triggering a DRI. However, where there is an expansion or a change to a former, DRI, again, the "benefits" included affordable housing criteria (or perhaps came before there were any), and thus the prior MVC had decided that the benefits outweighed the detriments at that point in time. To now retroactively apply new housing guidelines on the prior development and the current one under review is simply unfair. But for the new proposed development, there would not now be a DRI review. If the Commissioners are thinking that people will segment their development in order to avoid housing exactions, then an anti-segmentation rule that is based on an expiration of a reasonable amount of time between development proposals would be a good way of looking at things from here on. I would recommend no more than a 5 year lookback period for such a proposal, as that would reflect a typical economic cycle.*

2. PROPOSED: 2A.6 Family Subdivisions: The purpose of this section is to facilitate the ability of Island families to continue to reside on the Island. The Commission, at its discretion, may determine that any Buildable Lots in a subdivision which the owner intends to convey to his/her immediate family members shall not be included in the total number of Buildable Lots at the time of the DRI review. If any of the lots are subsequently conveyed to a non-family member, they will be deemed subject to this policy and will be included (retroactively) in the total number of Buildable Lots. Any monetary mitigation payable will be based on the fair market value of the lot (excluding any improvements) at the time of the conveyance out of the family. This arrangement may be subject to conditions, including the timing of the conveyance of any such lots to the family members.

*Comments: Why only immediate family members? Does the MVC care not about continuity of our community? Grandchildren or cousins, etc. should not be excluded. Moreover, "fair market value (less any improvements)" should be defined better to indicate that this means the FMV at the time of a*

*certificate of compliance with and completion of the DRI less the costs for development meaning the fair market profit that the family would have had at the time. For the MVC to try to ride the coat-tails of the market to points in the future is not fair. However, perhaps a time value of money or inflationary measure could be included to stay with a "real dollar" measure.*

3. PROPOSED: 2B.4 Condition of Dwelling Units: On-site Dwelling Units provided must be: (a) newly constructed or renovated; and (b) integrated with the other units in the development; and (c) in keeping with the exterior architectural design, appearance, and construction of the other units in the development; and (d) constructed of the same quality of materials used in the other units in the development. The Commission may require the applicant to provide plans and other details with respect to these matters.

*Comments: Affordable houses should only be required to be constructed to code and needn't be built to a luxury standard. Keeping the same look and feel on the exterior is one thing, but insisting that a three bedroom modest home must match the look of 5000 sf luxury homes is just asking too much. Again, the MVC should not be trying to socially engineer affordable housing, just to address the housing need that it reasonably expects is created by the DRI before it. Asking any more is unreasonable and goes beyond the need for affordability.*

4. PROPOSED: Residential DRIs Section 2B.5: Prior Construction of Dwelling Units: Dwelling Units constructed in the development prior to the current application will be included in the total number of Dwelling Units used to calculate mitigation.

*Comments: Same issue as with §2B.4 The marginal increase is fine but reaching back is not reasonable. This is a form of double dipping – the proposed policy would ask the new proposal to pay a higher rate for previously permitted construction.*

5. PROPOSED: Non-Residential DRIs Section 3A.3: Determination of Total Additional Square Footage: Total new/additional square footage includes all new/additional square footage in the proposed development or development extension including the basement, commercial and residential areas, and common spaces within the footprint of the building(s).

*Comments: Basement used in storage or parking only should not be counted (or not counted entirely). If actively used with upper levels as merely another level, though subsurface, then maybe ok. The counting of Basement space however will be counter to the other policy goals of trying to reduce commercial sprawl.*

6. PROPOSED: Definition of Buildable Lot: Buildable Lot means a parcel of land on which regulations allow construction of a house without a variance or special permit, and which is capable of having a water supply (well or municipal water hook-up) and septic treatment (septic system or sewer hook-up) and, for the avoidance of doubt, does not include a lot that is subject to a permanent restriction which prevents development.

*Comments: A Lot is buildable if it has a variance or special permit, so that should be acceptable.*

7. PROPOSED: Definition of Dwelling Unit: includes principal dwellings, guest houses, and rooms for lease or rent.

*Comments: should be 'or' not "and" to include all forms of "dwelling units." Further, there is no reason why one would want a room for lease to be construed as a "dwelling" as provision of a room should not be construed as housing. A Dwelling is defined in the state sanitary code and that is concomitantly how it should be defined here.*

Other General Comments on Housing Policy Revision 2019:

- 2B.1 Rounding up? Why changing 0.5 rounds up, 0.49 stays? If you round up, you should round down. Otherwise, don't round at all. It's unfair.
- 2B.3 Valuation based on retail value is a push too far! The developer profit is the key... infrastructure development costs are crazy and the developer PROFIT is where the affordable housing policy should be focused. After, all, providing affordable housing under the policy is a cost that reduces profit. Without a profit, nothing will get improved or developed. Remember, that developers are taking RISKS and, if a development is impacted adversely, the profits get reduced, dissuading future development. Remember, the economic engine on this island is development to serve our tourist economy.
- Mitigation – Should all payment plans as lots are sold or as a commercial development stabilizes its cash flow (at some reasonable point after year 1 or 2).
- It has been suggested that the MVC should want developer to build affordable houses first... but it is important that the MVC is careful to balance social justice with practical need for housing – integration of people. The MVC is a land AND ECONOMIC development agency, not one that can mandate social integration, though it can and should meet all anti-discriminatory goals now recognized by our government. Economic status is not a protected status and I firmly believe we should avoid having the MVC get into that business.
- These are taxes on development. Who can afford this? Not the locals...only huge, well-funded developers. The little guy isn't going to be able to better his own life.
- The Appendices (see Footnotes 13+14) were a good idea, but very difficult to follow. I believe that the policy cannot really be fully reviewed to understand its impact with the Appendices as crafted.

Page 5 of 5  
June 27, 2019  
Martha's Vineyard Commission  
RE: Proposed New Housing Policy on DRI Reviews

Thank you for the opportunity to provide these comments. I sensed that the sub-committee and others wanted to adopt this policy despite the many comments presented. That seems to be contrary to the point of having a public hearing. If one holds a public hearing to gain a sense of the community thoughts, and then simply holds a vote, then the deliberative and legislative process of the MVC takes on an air of a lack of true transparency and a sense of arrogance of not really trying to take heed of the comments and then to try to conform the policy to the comments presented.

Sincerely,

/s/ BLH, Jr.

Benjamin Lambert Hall, Jr.