

Montgomery County, MD

Background⁵³

Once just a bedroom suburb of Washington, D.C., Montgomery County, Maryland has grown into a suburban employment center and the most populous county in Maryland, with a 2000 population of 873,341. The County has become more racially diverse over the years, as minority population growth from 1990 to 2000 was 1.25 times the total population growth in the County. Minorities now represent 40 percent of the total County population. For residents choosing one race category (96.6 percent), the composition of the County was as follows: 64.8 percent white; 15.1 percent black; 11.3 percent Asian/Pacific Islander and 5.3 percent other.⁵⁴ The overall Hispanic population was 11.5 percent.

Montgomery is one of the wealthier counties in the country with an estimated 1999 median household income of nearly \$72,000. Two of seven households had incomes of \$100,000 or more in 1996 compared to one in 12 for the whole country. It's child poverty and overall poverty rates – 8.8 percent and 5.6 percent, respectively – are nearly half of the state rates.

As one would expect in a county with a high median income, housing costs are also high. The 1999 median home price was \$205,000. The median cost for a new, single-family detached home was \$364,000. Rental rates in the County were also high and ranged from an average of \$729 for an efficiency to \$1,167 for a three-bedroom apartment.

Though Montgomery County has long been known for its commitment to fair housing and its efforts to distribute affordable housing units throughout the jurisdiction, economic disparities still persist. However, as regional policy expert David Rusk notes, “County policies have prevented a steeper decline in the eastern county while bringing much greater racial and class diversity to the western county than laissez-faire market trends would ever have produced.”⁵⁵

History of MPDU Ordinance

As Montgomery County became more urbanized in the late 1960s and early 1970s, new housing prices were beyond the reach of many low- and moderate-income County residents. In response to concerns that it was becoming increasingly difficult to locate affordable housing, housing advocates, specifically the League of Women Voters and Suburban Maryland Fair Housing, pushed for measures to assist those households wanting to live in Montgomery County. In 1973, Montgomery County became the first jurisdiction in the country to successfully enact an inclusionary zoning ordinance, the MPDU ordinance.

⁵³ Demographic data in this section is from the Montgomery County Planning Department website: *Montgomery County at a Glance* at <http://www.mc-mncppc.org> and U.S Census Bureau, *State and County QuickFacts*.

⁵⁴ The 2000 Census was the first time respondents could identify themselves as being of more than one race. For all counties, the racial composition is based on those respondents who selected one race.

⁵⁵ David Rusk, *Inside Game, Outside Game*, Washington, D.C.: Brookings Institution Press, 1999, p. 200.

The ordinance faced stiff opposition prior to becoming law. Many stakeholders, including the County Executive at the time, opposed the original MPDU law. Builders believed the inclusion of affordable units would cut into their profits and existing homeowners were afraid affordable housing would lower the value of their homes. There were also concerns about the constitutionality of the ordinance, and whether it was fair to require developers, rather than the County, to provide affordable housing. Despite this broad opposition, following nearly a year of modifications, a veto by the County Executive, and an override vote, the MPDU ordinance was enacted on January 21, 1974. The first units produced under the ordinance were offered for sale in 1976.

Ordinance Content and Administration

The Montgomery County ordinance originally applied to developments of 50 or more units and required that 15 percent of the units be affordable, in return for a density bonus of 20 percent. Price and rent controls on the units were set for five years, and developers were allowed to determine whether units would be offered for rent or for sale. The Housing Opportunities Commission, the County's public housing agency, could purchase up to 33 percent of for-sale affordable units for rental to very low- to low-income households. A 1981 amendment decreased the amount of affordable units required to 12.5 percent, but also increased the price control period to ten years. It also required that all affordable units in owner communities be offered for sale, as many developers tried to satisfy their affordable housing requirements by providing rental units in for-sale developments.

Amendments to the ordinance in 1989 gave developers more flexibility. A sliding scale for the percentage of affordable units in a development (between 12.5 and 15 percent) was implemented, based on the number of density bonus units a developer could actually build. The density bonus changed from 20 percent to a maximum of 22 percent and the price control period for rentals was lengthened to 20 years. Other significant changes include the following: after the price controls expire, half of the profits from the sale of an owner-occupied unit, first occupied after 1989, had to be paid to the Housing Initiative Fund; developers were allowed to spend more on for-sale units to ensure architectural compatibility with the market-rate units in the community, thereby increasing the sale price; alternative ways for developers to meet their MPDU requirements were allowed; and recognized nonprofit organizations were permitted to purchase moderately priced dwellings units, with the nonprofit and HOC allowance increased to 40 percent.

The Moderately Priced Housing Office, which is part of the Division of Housing and Code Enforcement, falls under the auspices of DHCA. This office is responsible for program administration, participant eligibility, the lottery system for participant selection, and enforcement of the ordinance requirements. The County Executive sets maximum income limits adjusted for household size, and rent and sale limits. The Director of the DHCA determines, among other things, when a developer may agree to an alternative to providing affordable units on site.