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EXPERT INSIGHTS ON INCLUSIONARY ZONING

An in-depth look at the evidence, policy considerations, and impact

APRIL 29, 2019

City of Chicago
Rahm Emanuel, Mayor

Department of Housing

ARO

AFFORDABLE REQUIREMENTS ORDINANCE

The ARO is Chicago’s Inclusionary Housing Ordinance

- Creates affordable units in strong markets with no public funding – primary tool to counteract segregation

- Generates funds for affordable housing development through in-lieu payments to the Affordable Housing Opportunity Fund (AHOF)

ARO Requirement

Applies to residential developments that seek *public* tools or assistance which provide a *private* benefit

Residential Projects with 10+ units that seek:

- a zoning change to increase allowable floor area; or
- City land (even at FMV); or
- downtown Planned Development (PD) designation

must include 10% affordable units

Residential projects that receive City financial assistance must include 20% affordable units

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Where we Started: 2007 ARO

- 2007 ARO arose out of 2004 Five Year Planning process
- Booming housing market

- 2007 ARO required **10%** of units to be affordable
- Developers subject to the 2007 ARO could elect to pay an in-lieu fee of **$100,000** per required affordable unit for the entire obligation

- Requirements were the same citywide

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Taking another look: 2015 ARO

- 2014: Changing Housing Market started discussion to update ARO

- 2015: Mayor Emanuel named 20-member Task Force to consider changes to the ARO

- Goals:
  - Create more units
  - acknowledge different markets

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What we Changed: 2015 ARO (2015 - today)

- 1. **Created three zones** in the City to reflect different housing markets and priorities
- Three zones/areas:
  - **Downtown**
  - **Higher Income**
  - **Low-moderate Income**
- Allows differentiation of mandates and flexibility for developers

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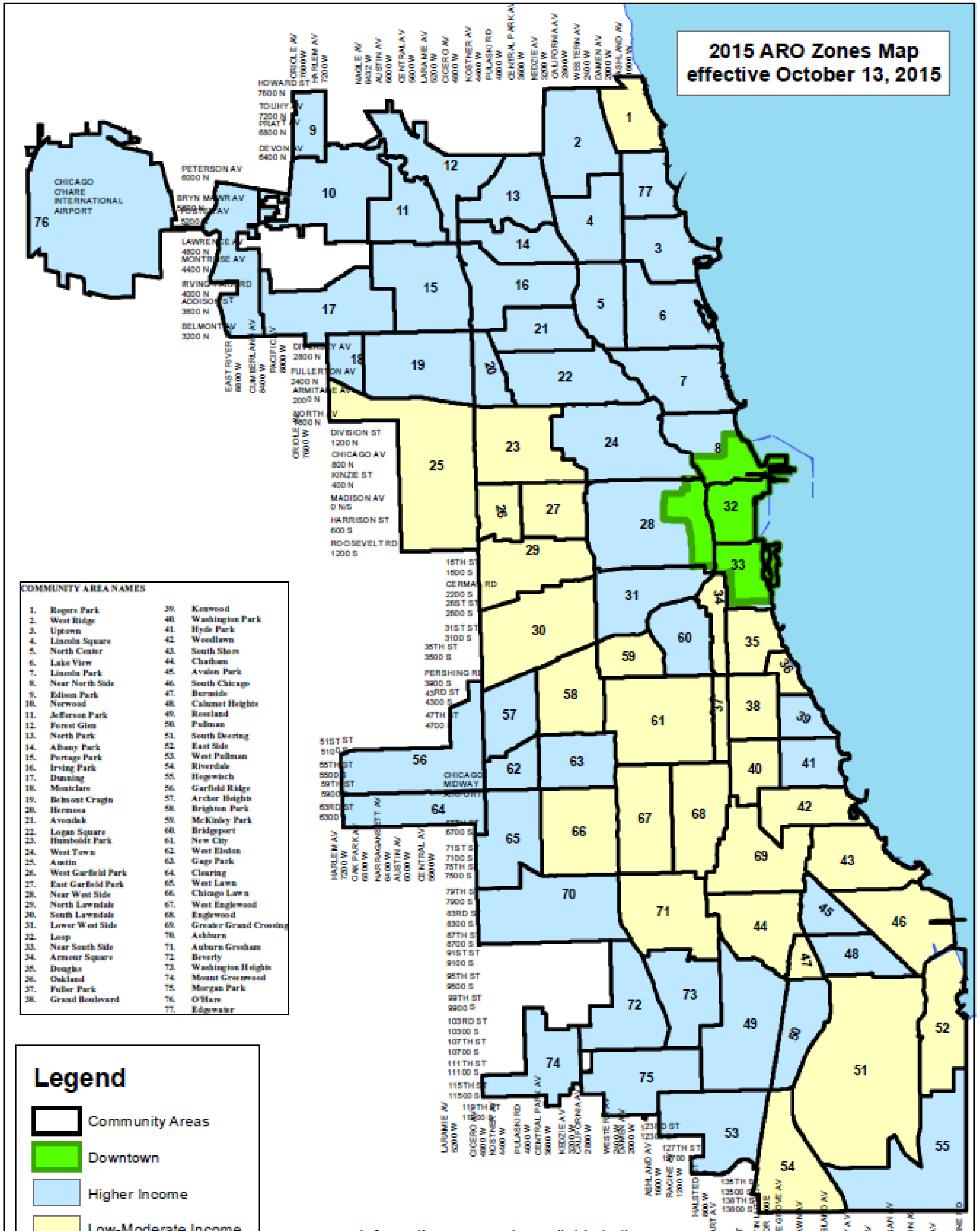
Chicago ARO Zones



more information on map is available in the

What we Changed: 2015 ARO (2015 - today)

2. **Adjusted in-lieu fees** so developers in struggling markets pay less and developers in booming markets pay more

	2007 ARO	2015 ARO	2015 ARO-starting Jan 1 2019
Low/Moderate income areas (yellow zone)	$100,000	$50,000	$52,214
Higher income areas (blue zone)	$100,000	$125,000	$130,534
Downtown (green zone)	$100,000	$175,000/ $225,000	$182,748/ $234,962

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What we Changed: 2015 ARO (2015 - today)

3. **Increased the number of affordable units** by **requiring** units

- Require at least 1/4 of the required 10% affordable units (20% if the City provides financial assistance) to be built on-site
- Developers can pay in-lieu fee for remaining 3/4 of the obligation

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What we Changed: 2015 ARO (2015 - today)

4. Allowed **off-site units**

- Developers in Higher Income Areas or Downtown have the option to build their off-site units **within two miles – and in the same zone –** of the proposed project

- Downtown For-Sale developers can build their off-site units **anywhere in the City**

- Off-site units need to be comparable – and constructed concurrently – to triggering project

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What we Changed: Pilots (2017-today)

- As market continued to strengthen, some neighborhoods were experiencing ongoing gentrification or were susceptible to gentrification
- 2015 ARO had not stalled or slowed pace of development
- Created 3 new Pilots

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What we Changed: Pilots (2017-today)

- **Pilots** respond directly to neighborhood-level affordability concerns and test innovative policies
- Neighborhoods in which:
  - Planning processes highlighted affordability as community concern
  - High concentration of ARO-triggering developments
- Pilots targeted to neighborhood-specific concerns, including
  - More hard units
  - Gentrification concerns for communities adjacent to hot-markets
  - Funds to enable existing homeowners to stay in their homes and neighborhoods

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Measuring Success and Impact of the ARO

Hard Units				
	# of projects	**ARO units completed or under construction**	**in-lieu fees collected**	**Additional ARO units we're tracking**
Total	196	837	$94 million	4,000+
NN-NW Pilot	5	155	n/a	755
MW Pilot	1	16	n/a	78

Measuring Success and Impact

Affordable Housing Opportunity Fund		
	Dollars collected	Units subsidized
Overall	$159,489,921	+/- 8,100
Affordable Housing Development	$87,535,331	+/- 2,500
Chicago Low-Income Housing Trust Fund	$71,954,591	+/- 5,600

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Measuring Success and Impact

- Opportunity Investment Fund (OIF)
- Preservation of Affordable Rental (PEAR)
- Micro-Market Recovery Program
- Community Receiver and Neighborhood Rebuild
- Building Neighborhoods and Affordable Homes
- Flexible Housing Pool
- 606 Homebuyers Home Improvement Fund

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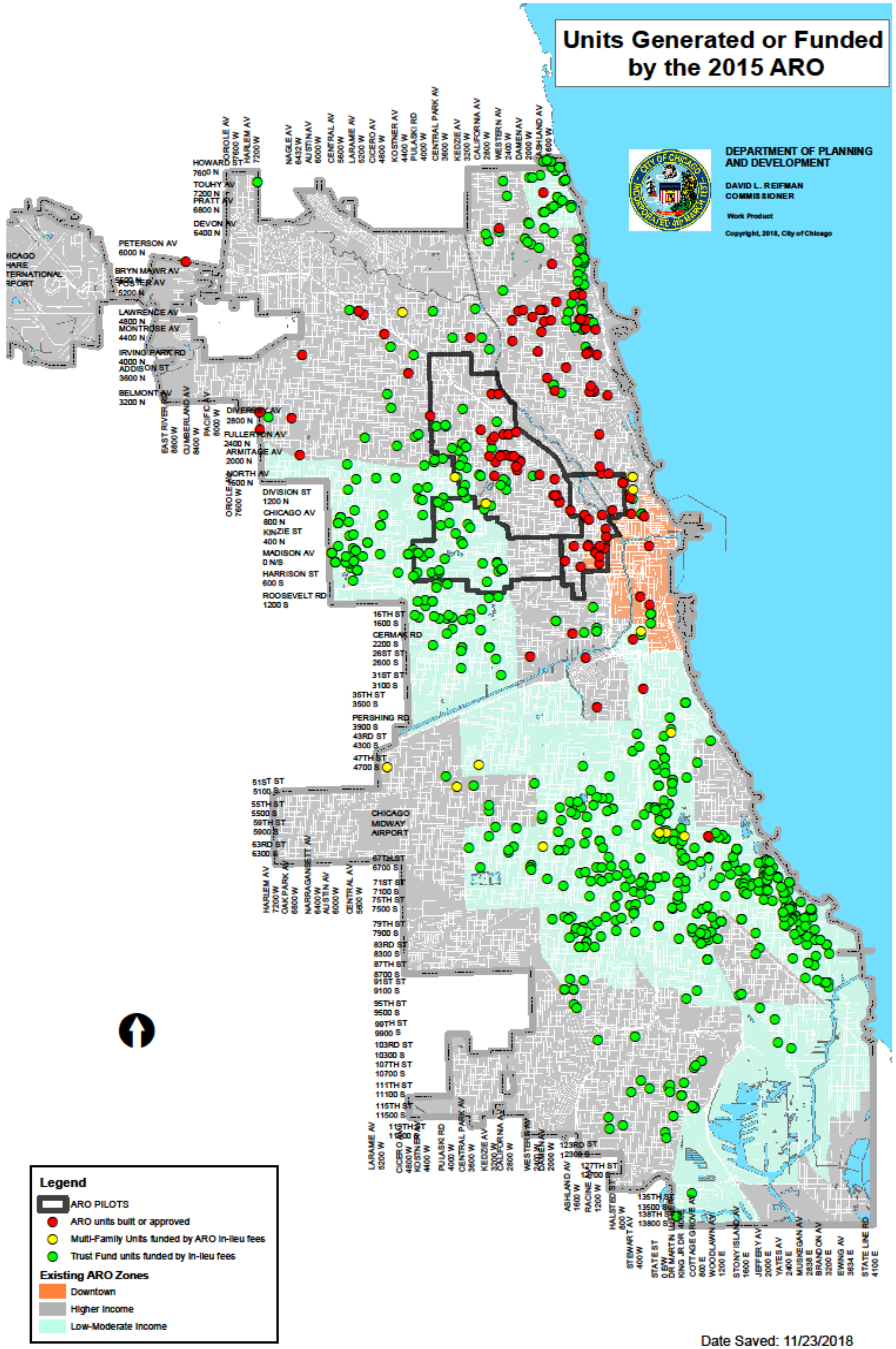
Measuring Success



Leveraging the ARO: *Mega* Developments

ARO staff worked to secure substantial affordability commitments from three major development projects:

- **Lincoln Yards:** 6,000 proposed residential units with a 1,200-unit ARO requirement at full build out. 50% (600 units) onsite, 25% offsite, 25% ($39MM) AHOF

- **The 78:** 10,000 proposed residential units with a 2,000-unit ARO requirement at full build out. 25% (500 units) onsite, 50% off-site within two miles or the nearby Pilsen/Little Village Pilot Area, 25% ($91MM) AHOF with possible $10million prepayment

- **The River District:** 4,099 proposed residential units with an 820-unit ARO requirement at full build out. All units will be on-site.

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ARO Lessons Learned

- Clearly articulate policy goal and draft Legislation and Rules to achieve it
  - For example: ARO creates workforce housing in strong markets and reduces segregation. It is not as effective in creating very-low-income units
- ARO can't be all things to all priorities. Advocates push for:
  - More Family-size Units (most market rate developments are 0/1s/2s)
  - AMI levels (advocates want to target lower AMIs)
  - Affordability Obligation Percentage (advocates want 30% plus)
  - Local Preferences (advocates want preference for local/displaced residents)
- Message: The ARO is Only One Tool in the Toolbox
  - ARO created 837 units and $94 million since 2007
  - 5YP: 80,000 units and $3.2 billion since 2009

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ARO Lessons Learned

- Set in-lieu fee carefully
  - **High** enough in stronger markets to encourage units and approximate cost to construct comparable units
  - **Low** enough to not discourage development in slower markets

- Be proactive in telling the in-lieu story
  - In-lieu option repeatedly characterized as “opting out” – when AHOF fees are crucial to providing units for the very-low income population

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ARO Lessons Learned

- Enforcement is Important
  - Covenants
  - Violations

- Exercise Caution on Off-Site Units
  - Option has proven difficult to monitor
  - Units need to remain affordable for 30 years: How do we ensure that?
  - How do we ensure that off-site units create mixed-income buildings?
  - How do we ensure off-site units are comparable?

- Set Rules and Stick to Them
  - ARO has a "*hardship waiver*" – developers use it to circumvent rules

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