



**DENVER**  
OFFICE OF ECONOMIC  
DEVELOPMENT

## Denver Inclusionary Housing Ordinance



# 2015 INTERIM REPORT

October 2015

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### Introduction

The City of Denver's (**Denver**) Inclusionary Housing Ordinance (**IHO**) is a key element of the City's multi-pronged strategy to tackle Denver's critical need for affordable housing. In 2014, City Council crafted and approved updates to the IHO to incentivize the creation of affordable for-sale homes as Denver's overall for-sale housing stock grows and in response to the changing real estate market. Together these updates create a stronger and more nuanced structure of incentives that give the City increased flexibility to ensure that units are created in line with the City's affordable housing policy goals.

The IHO program creates affordable homes in multiple ways. For developers who choose to satisfy their IHO obligation by building units on-site, the IHO program provides homeownership opportunities in mixed-income developments, supporting the City's goal of fostering diverse neighborhoods that allow residents to live where they work and play. In other cases, cash-in-lieu fees paid by developers capitalize an IHO Special Revenue Fund that the City can use to invest in affordable housing where it is needed the most.

Units created as a result of the IHO program represent an important first step on the property ladder for families earning between 50% and 95% of Denver's Area Median Income (**AMI**). In 2015, for a family of four, an eligible family would be one earning a household income between \$39,950 and \$75,905. Through the IHO program, families like these have the opportunity to put down roots in their communities, opportunities that are increasingly important as median home values in Denver continue to rise out of reach for many working families.

In addition to last year's legislative changes to the IHO, Denver's Office of Economic Development (**OED**), which administers the City's affordable housing policies, programs, and investments, has endeavored to improve IHO governance and administration. One major change will be the inclusion of the annual IHO report with OED's overall annual housing report, in the first quarter of every year. This report serves as an interim update in advance of the full annual housing report in Q1 2016.

### IHO Requirements at a Glance

The IHO requires all newly constructed, for-sale housing development projects of 30 or more units to allocate 10% of the units as affordable. Affordable units must be of a commensurate type and size as market-rate units, unless an alternative is negotiated at the discretion of the OED director (see *Alternative Satisfaction* below). The income level at which units must be affordable depends on the type of structure:

- A *high-cost structure* is one that: (a) is three stories or greater; (b) includes an elevator; and (c) has more than 60% of its parking within a parking structure. For a high-cost structure, units must be affordable at 95% of Area Median Income.
- A *standard structure* is any residential structure that does not meet the definition of a high-

cost structure. For a standard structure, units must be affordable at 80% of AMI.

Each year, OED publishes on its website the maximum sales price at each income level, adjusted by number of bedrooms. To be eligible to purchase an IHO unit, households must earn at least 50% of AMI. The 2015 eligible income levels and maximum sales prices are shown in **Table 1** and **Table 2**:

**Table 1. MAXIMUM SALES PRICES**

% AMI	Number of Bedrooms				
	Studio	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms
<b>80% AMI</b>	\$155,330	\$169,084	\$218,108	\$246,886	\$260,465
<b>95% AMI</b>	\$192,073	\$211,045	\$270,309	\$303,131	\$320,971

**Table 2. ELIGIBLE INCOME LEVELS**

% AMI	Household Size					
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
<b>50% AMI</b>	\$28,000	\$32,000	\$36,000	\$39,950	\$43,150	\$46,350
<b>80% AMI</b>	\$44,750	\$51,150	\$57,550	\$63,900	\$69,050	\$74,150
<b>95% AMI</b>	\$53,200	\$60,800	\$68,400	\$75,905	\$81,985	\$88,065

Developers may negotiate with OED to satisfy their IHO obligation through alternative compliance or by contributing a cash-in-lieu fee to the IHO Special Revenue Fund. Developers who satisfy their IHO obligation by building units on-site are eligible to receive a per unit incentive, pending the availability of funds in the IHO Special Revenue Fund.

### Off-site and Alternative Satisfaction

At the discretion of OED, developers may negotiate an alternative affordable housing plan. The option for alternative satisfaction allows developers to deviate from the IHO requirement on one particular aspect in exchange for exceeding the requirement in other aspects.

Off-site alternative compliance options may include:

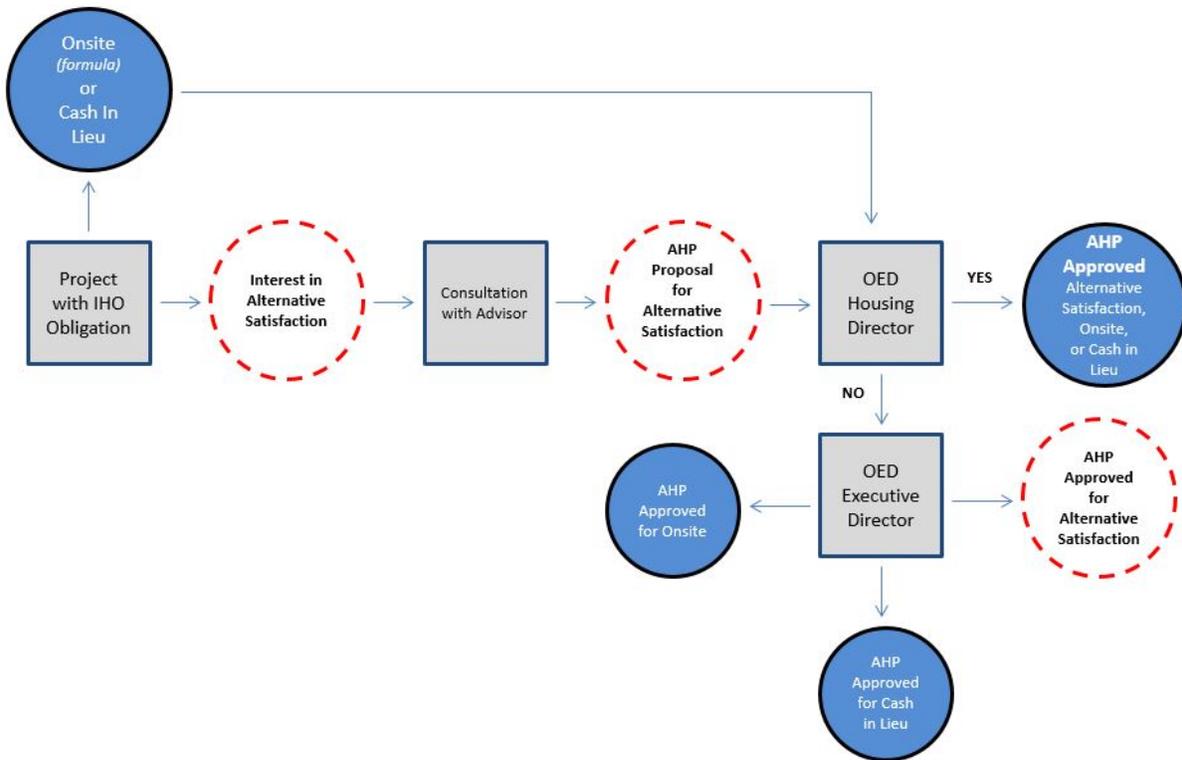
- Building more total bedrooms or more units than required at a site in the same or proximate neighborhood;
- Building more total bedrooms or more units than required at a site within a half mile of light rail or commuter rail; or
- Building more *rental* units at a site in the same or proximate neighborhood or within a half mile of light rail or commuter rail.

On-site alternative compliance options may include:

- Building fewer units than required that are affordable at lower income levels than required;
- Building fewer units than required with more net bedrooms;
- Building fewer units than required for populations with special needs;
- Building fewer units than required with a longer deed restriction; or
- Building more rental units.

**Figure 1** demonstrates the Alternative Satisfaction Process.

Figure 1. ALTERNATIVE SATISFACTION PROCESS



**Neighborhood Zones for Cash-in-Lieu Fees and Rebates**

A key feature of the 2014 IHO amendments was the introduction of three statistical neighborhood categories that rank neighborhoods as High, Moderate, or Low depending on the existing availability of affordable housing and proximity to transit. The amount of cash-in-lieu fees and rebates depends on the neighborhood type in which the project is located, as shown in **Table 3**. The current designation of each Denver neighborhood is shown in **Appendix A**.

Table 3. FEES AND REBATES BY NEIGHBORHOOD ZONE

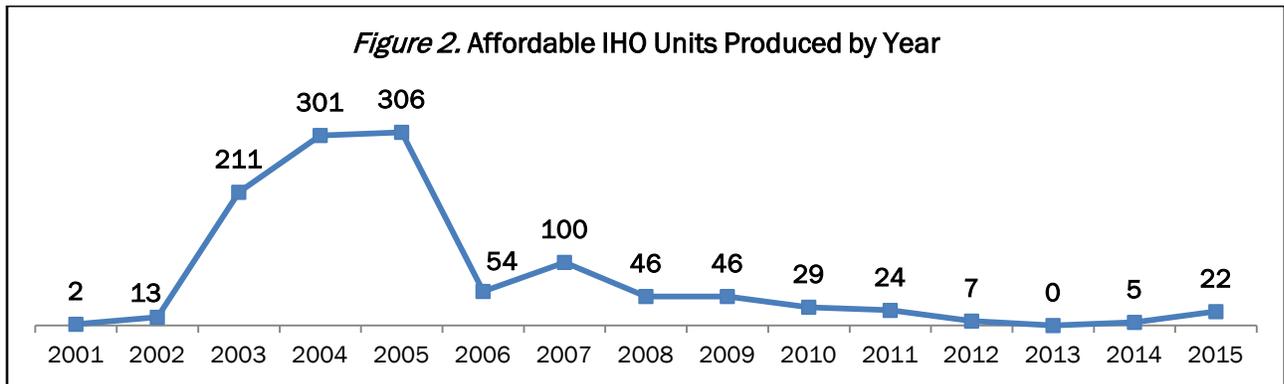
Neighborhood Affordable Housing Zone	Cash-in-lieu fee (% of affordable sales price, per unit )	Rebate for units constructed (per unit)
High	70%	\$25,000
Medium	50%	\$6,500
Low	25%	\$2,500

## Covenant Restrictions

The long-term affordability of units created as a result of IHO requirements is guaranteed through a restrictive covenant. Unless otherwise negotiated as part of alternative compliance, the affordability of IHO units is restricted for fifteen years. During this time, owners of IHO units must notify OED of their intention to sell and must sell the unit at or below a maximum sales price calculated by OED. All buyers of IHO units during the income-restricted period must: (i) have their income verified, (ii) participate in an approved housing counseling program, and (iii) use the unit as their primary residence.

## Production

IHO production is reflective of the market rate for-sale housing production in Denver; therefore, IHO unit production has been somewhat dependent on conditions affecting all for-sale housing in Denver. As shown in **Figure 2**, the majority of existing IHO units were constructed as part of large-scale developments built from 2003-2005. As the housing market slowed in the mid-2000s, IHO production slowed along with it. Even as the housing market in Denver has strengthened significantly in the past few years, for-sale multi-family production has continued to be affected by tighter lending standards and construction defects requirements. While for-sale construction has remained slow, 2015 has seen an increase in IHO unit production.



IHO projects can be classified as “**Non-Large Scale**” or “**Large Scale.**” Existing Large Scale developments are projects that have a contractual agreement with the City to provide at least 200 affordable for-sale housing units as part of a master planned development and are allowed to participate in the IHO and receive incentives. Non-Large Scale developments are usually smaller projects that build 30 or more for-sale units and must comply with the IHO. As shown in **Table 4**, the preponderance of IHO units are located in Large Scale developments in the eastern portion of the city, with the remaining sites scattered throughout Denver.

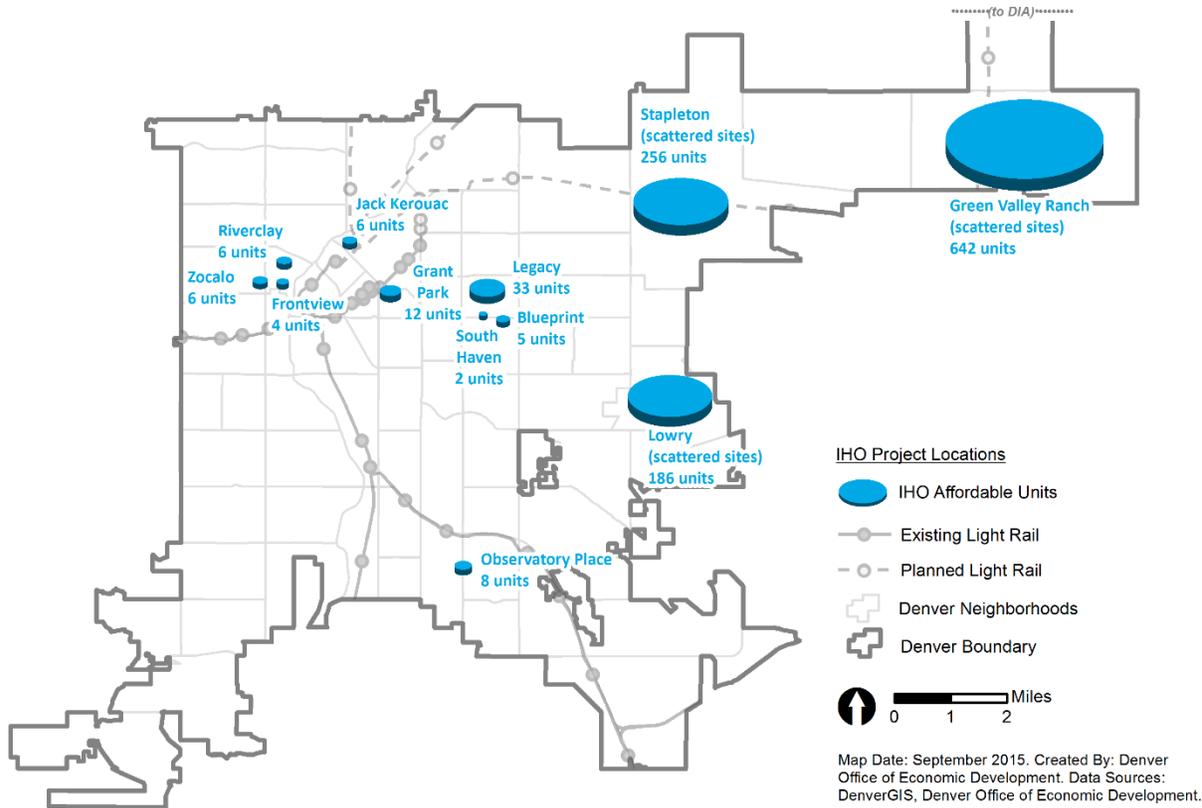
**Table 4. IHO UNITS BY DEVELOPMENT TYPE**

Type	Project	AMI	# of Units
Non-Large Scale	Various	80 - 95%	82
Large Scale	Green Valley Ranch	80%	642

	Lowry Redevelopment	80%	186
	Stapleton	80 - 100%	256
<b>Total</b>			<b>1,166</b>

Figure 3 shows the location of all IHO units constructed to date. This map includes units that were built on-site as part of mixed-income projects only.

Figure 3. IHO On-Site Units Constructed, 2001 - June 2015



**IHO Special Revenue Fund**

The IHO Special Revenue Fund (**Fund**) was created by the City to support the implementation of the IHO. The Fund collects cash-in-lieu payments and is the source of funds for rebates and incentives as provided for in the IHO legislation. The Fund is administered by OED and was capitalized with \$2,150,000 in City general funds between 2003 and 2005. Since then, the Fund has grown to \$4,297,473 as shown below in **Table 5**.

**Table 5. IHO SPECIAL REVENUE FUND BALANCE**

REVENUES	
Cash in Lieu	\$7,647,921
Fees	\$3,926
Fund Transfers	\$2,150,000
Investment Income	\$381,362
Interest Received	\$138,878
Principal Received	\$4,741
<b>Total Revenues</b>	<b>\$10,326,829</b>
EXPENSES & PAYMENTS	
Rebates	\$2,749,500
Grant	\$312,000
Loans	\$2,431,757
Administrative Expenses*	\$536,099
<b>Total Expenditures</b>	<b>\$6,029,356</b>
CURRENT BALANCE	
	<b>\$4,297,473</b>

*\*Administrative costs are approximately 12.5% of fund balance and 8.9% of expenditures.*

**IHO Rebates/Incentives**

Incentive rebates are paid to developers who produce affordable units in accordance with the IHO, as funds are available and depending on the location of the project. As described above, rebates vary by neighborhood based on the existing availability of affordable housing and proximity to transit. If the project is in a Low zone, the rebate is \$2,500 per affordable unit provided; if the project is in a Medium zone, the rebate is \$6,500 per affordable unit provided; if the build is in a High zone, the rebate is \$25,000 per affordable unit provided. The City is only obligated to provide rebates if there is sufficient capital available in the fund. **Table 6** shows all rebates that have been disbursed from the fund over the life of the IHO.

**Table 6. INCENTIVES AND REBATES PAID FROM THE IHO FUND**

DEVELOPMENT	AMOUNT	YEAR	# Units
Oakwood Homes	\$750,000	2003 - 2005	150
Forest City	\$793,500	2003 - 2014	152
Lowry Redevelopment	\$978,000	2005 - 2012	188
Jack Kerouac Lofts	\$30,000	2006	6
Zocalo	\$33,000	2006	6
Observatory	\$44,000	2007 - 2010	8
Wonderland	\$27,500	2007	5
Riverclay Condos	\$33,000	2008	6
Grant Park	\$60,500	2009	11
<b>TOTAL REBATES/INCENTIVES</b>	<b>\$2,749,500</b>		<b>532</b>

### IHO Cash In Lieu Fees

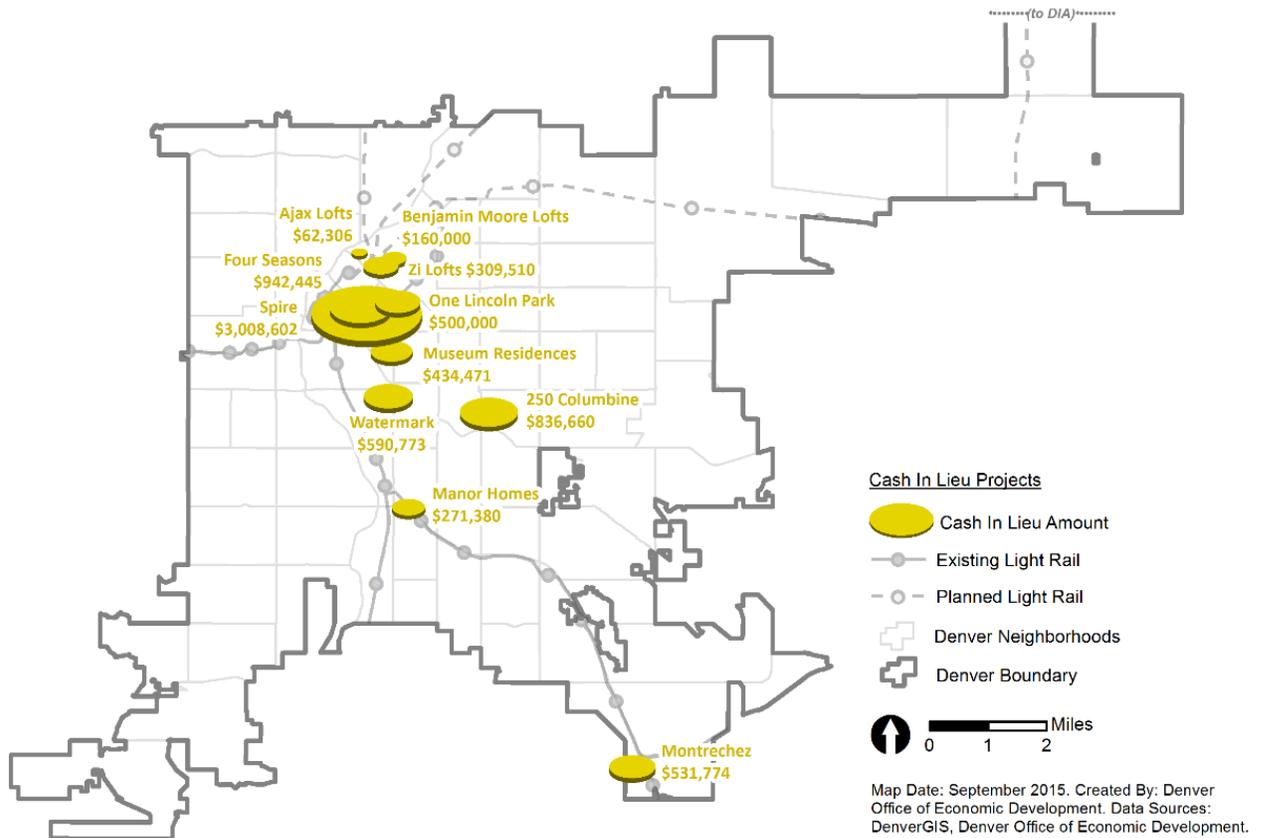
Developers of projects required to comply with the IHO may negotiate with OED to satisfy their obligation through a cash-in-lieu (CIL) payment, which varies according to the need for affordable housing at the location of the project, as described above. If the project is in a Low zone, the CIL fee is 25% of the affordable sales price for each affordable unit not provided; if the project is in a Medium zone, the CIL fee is 50% of the affordable sales price for each affordable unit not provided; if the project is in a High zone, the CIL fee is 70% of the affordable sales price for each affordable unit not provided. All cash-in-lieu fees are deposited into the fund, as shown in **Table 7**.

**Table 7. CASH IN LIEU FEES RECEIVED BY THE IHO FUND**

DEVELOPMENT	ADDRESS	AMOUNT	YEAR	# Units
Benjamin Moore Lofts	2500 Walnut	\$160,000	2005	2
Museum Residences	55 W. 12th Avenue	\$434,471	2005	6
Manor Homes @ Platte Park	Sherman Subdivision	\$271,380	2007	4
Zi Lofts & Town Homes	2229 Blake	\$309,510	2007 - 2008	4
Ajax Lofts	2955 Inca	\$62,306	2008	1
Watermark	5th & Acoma	\$590,773	2008	9
Spire	891 14th Street	\$3,008,602	2010 - 2013	49
Four Seasons	1111 14th Street	\$942,445	2011	10
Montrechez	4545 S. Monaco	\$531,774	2011 - 2013	5
One Lincoln Park	2001 Lincoln	\$500,000	2012 - 2014	18
250 Columbine	250 Columbine	\$836,660	2014	7
<b>TOTAL CASH IN LIEU:</b>		<b>\$7,647,921</b>		<b>115</b>

**Figure 4** shows the location of projects that have satisfied their IHO obligation by paying a cash-in-lieu fee.

**Figure 4. CASH IN LIEU FEES RECEIVED BY PROJECT LOCATION**



### IHO Loans & Grants

When the amount of cash-in-lieu fees received exceeds the amount of rebates paid for IHO units, the excess funds may be used by OED as a source of capital to finance the creation or preservation of additional affordable units. OED has invested approximately \$2.7 million from the IHO fund, resulting in the creation of 479 affordable units, as shown in **Tables 8a and 8b**.

**Table 8a. AFFORDABLE HOUSING INVESTMENTS FROM THE IHO FUND (LOANS)**

Development (Loans)	Year	Amount Invested	Amount Leveraged	Type	Units Built by Affordability Level			
					30% AMI	50% AMI	60% AMI	80% AMI
18th & Chestnut	2013	\$950,000	\$23,127,526	Rental		34	34	
Park Hill Village	2013	\$286,757	\$30,056,124	Rental		22	133	
Park Hill Village II		\$275,000						
Glenarm Residences	2014*	\$920,000	\$41,533,648	Rental	11		212	
<b>Totals</b>		<b>\$2,431,757</b>	<b>\$94,717,298</b>		<b>11</b>	<b>56</b>	<b>379</b>	

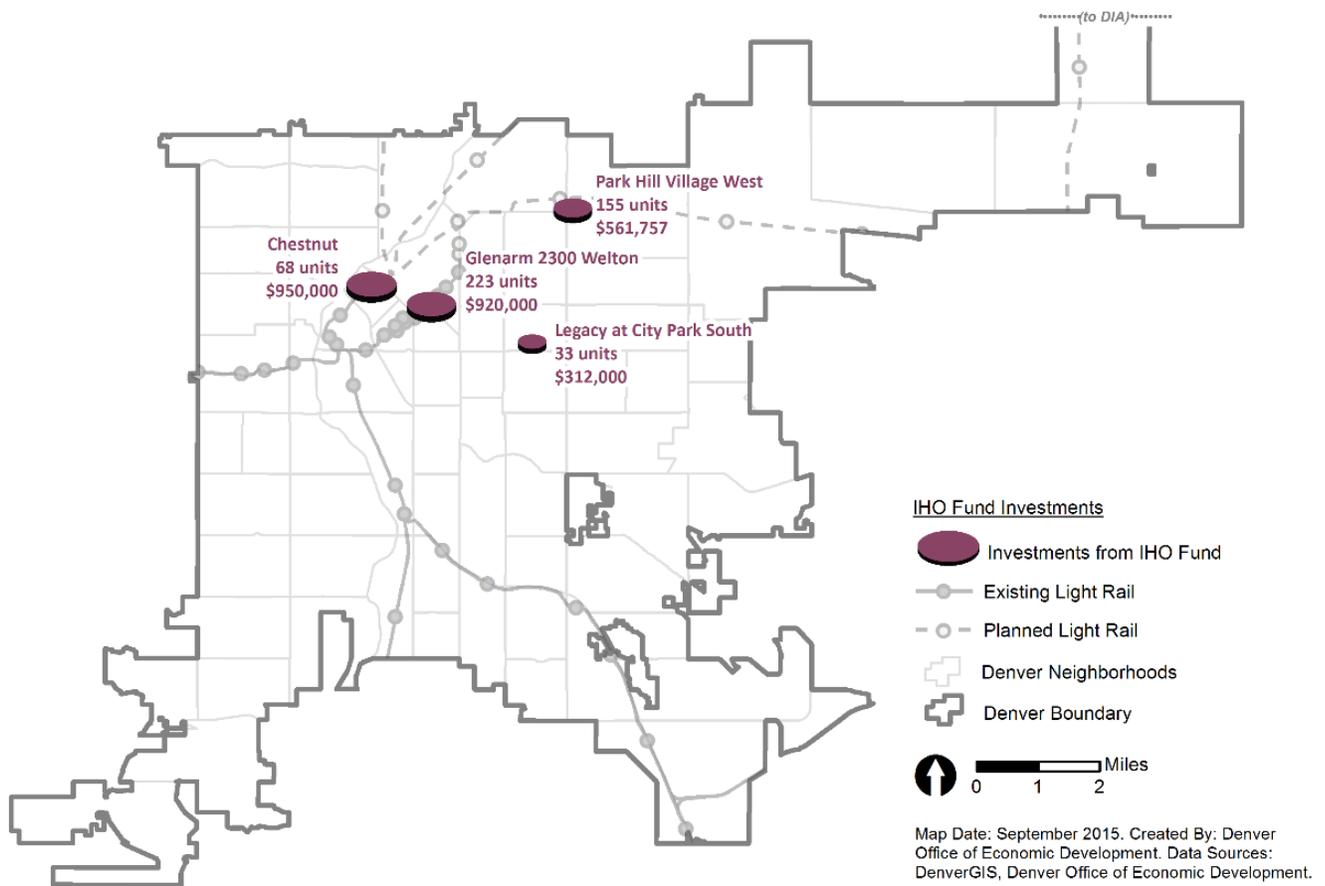
\*This represents a 2006 initial loan that was refinanced/constructed in 2015

**Table 8b. AFFORDABLE HOUSING INVESTMENTS FROM THE IHO FUND (GRANTS)**

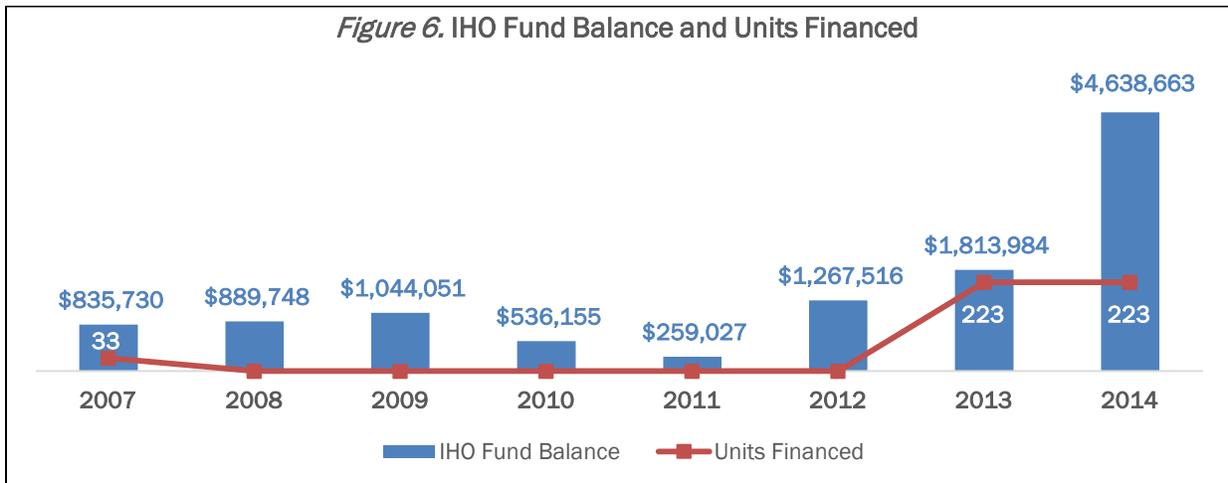
Development (Grant)	Year	Amount Invested	Amount Leveraged	Type	Units Built by Affordability Level				
					30% AMI	50% AMI	60% AMI	80% AMI	95% AMI
Mercy Housing	2007	\$312,000	n/a	For Sale				3	30
<b>Totals</b>		<b>\$312,000</b>						<b>3</b>	<b>30</b>

Figure 5 shows the location of affordable projects in which OED has contributed financing from the IHO Fund.

**Figure 5. AFFORDABLE HOUSING INVESTMENTS FROM THE IHO FUND**



As shown in Figure 6, the balance of the IHO Fund has shown strong growth in 2013 and 2014, enabling OED to finance two major new affordable rental projects in 2013-2014 (18<sup>th</sup> & Chestnut and Park Hill Village).



### Expected Future IHO Units Production and Fund Growth

OED is in negotiation with a number of developments that may be required to comply with the IHO, and currently expects at least 20 affordable for-sale units to be constructed. OED is currently anticipating requests for cash rebates of approximately \$152,000 and the receipt of cash-in-lieu payments of approximately \$950,000, meaning that the IHO fund will continue to grow into the near future.

OED has also executed an agreement for the Saint Anthony's/South Sloan's Lake project, which will provide 30 affordable rental units and either four 3-bedroom or six 2-bedroom affordable for-sale units. The South Sloan's Lake project includes an additional 120 affordable units financed by the Denver Housing Authority.

### Looking Ahead

OED continues to invest in its capacity to administer the IHO efficiently and in ways that meet the City's strategic affordable housing goals. The following actions have improved customer service for both the development community and for potential buyers of IHO homes:

- Hired an IHO advisor who acts a single point of contact for developers negotiating alternative IHO compliance. The IHO advisor also provides consistency across projects to ensure that IHO agreements collectively support the City's affordable housing strategy.
- Created affordable housing marketing materials for developers which provide a quick and easy understanding on the IHO and how to comply.
- Developed detailed written policies and procedures for IHO program administration, providing increased transparency and consistency.
- Created an online IHO application and income verification system, which will significantly improve potential homebuyers' access to the IHO program.
- Implemented a new CRM software system that will allow OED to digitize past IHO-related files and begin keeping program data in a new digital format. The new system will provide capacity for more in-depth evaluation and analysis of IHO units and investments.

OED looks forward to continuing to measure and assess the impact of the new IHO amendments on the City's affordable housing goals.

### APPENDIX A: Denver Neighborhood IHO Zones

