

While affordable housing is generally squeezed out of high cost housing markets, there is a potential silver lining for affordable housing development in such areas. Local authorities can employ developers' eagerness to build in these markets to spur the production of affordable units along with the market-rate housing units they hope to build. For example, some local governments offer cost offsets or incentives to developers who voluntarily agree to set aside a certain percentage of housing units for low- and moderate-income households within otherwise market-rate developments. Alternatively, many localities can require that developers create these affordable housing set-asides by adopting "inclusionary zoning" or "inclusionary housing" ordinances.

Inclusionary programs first appeared in the 1970s and have been adopted by hundreds of jurisdictions around the nation. There is a great deal of variation in the way these inclusionary programs are structured. From the percent of units required to be affordable to the income-targeting of the units to the project size threshold for triggering an inclusionary requirement, each program sets unique performance guidelines. There are also variations in the way developers are brought to the table. Incentives and cost offsets, which are often incorporated into ordinances, can include density bonuses that allow builders to place more units on a site than allowed under the zoning guidelines, fee reductions or waivers, streamlined permitting processes, or reduced parking requirements. Developers are also given the option of building affordable units off-site or contributing in-lieu fees to a housing trust fund rather than building units on-site.

One of the first, and most successful, inclusionary programs is in Montgomery County, Maryland, where the county's Moderately Priced Dwelling Unit program requires a 12.5-15 percent affordability component in both for-sale and rental developments. Montgomery County's program has created 13,000 affordable units in the county over the past 30 years.¹ In California, the 107 inclusionary programs in place as of 2003 accounted for the production of over 34,000 units of affordable housing over the preceding 30 years.²

Despite relative success, inclusionary programs are not without detractors. Critics of inclusionary policies argue that this market-based approach to affordable housing policy shifts the cost of affordable housing production from the public onto private developers. They contend that developers are forced to pass this cost onto market-rate homebuyers, or become so burdened by the added cost that they are dissuaded from developing any housing whatsoever. Claims are made that the resultant decrease in the overall supply of housing raises housing costs for everyone.

Supporters of inclusionary programs note that this argument doesn't hold up under scrutiny. Significant methodological flaws have been identified³ in the 2004 Reason Public Policy Institute report entitled "Housing Supply and Affordability: Do Affordable Housing Mandates Work?," which claimed that inclusionary programs in the San Francisco Bay Area had led to a decline in housing production. A study commissioned for the City of Los Angeles found that in California, inclusionary housing programs over a 20 year period (1981-2000) had not had a negative effect on overall housing production, and that most jurisdictions with inclusionary programs saw an increase in housing production.⁴

Arguments also crop up around the notion that inclusionary zoning constitutes an illegal "taking" by government since potential profits are reduced due to the requirements to construct affordable units. Legal precedent, however, has established the constitutionality of soundly structured and fairly applied inclusionary ordinances in areas where there is a clear need for affordable housing.⁵

Some difficulty remains in understanding the effectiveness of inclusionary programs. This is in part because critics and supporters of inclusionary policies often use the same data to argue very different points. For example, the Non-Profit Housing Association of Northern California, an affordable housing advocacy group, lauds the on-average production of 220 affordable units per year in the San Francisco Bay Area, where 57 jurisdictions have adopted inclusionary programs. The Reason Public Policy Institute used this same data as proof that the Bay Area programs were ineffective since *only* 220 units on-average were produced.

More research is needed to determine just how effective this policy measure is in creating affordable housing. In the meantime, high cost areas like Los Angeles, Maui, and Washington D.C. are debating proposals to adopt inclusionary ordinances, aiming to mirror other cities' efforts to translate high real estate demand into increased affordable housing. This is no small order, but is an important endeavor in areas where affordable housing is increasingly difficult to build.

For more information on inclusionary housing, particularly as experienced in California, see:

The California Inclusionary Housing Reader* and *Inclusionary Zoning: The California Experience

Available at <http://www.ilsg.org/inclusionary>

Endnotes

Inclusionary housing (Box 2.1)

- 1 Brunick, Nicholas (2004), "The Inclusionary Housing Debate: The Effectiveness of Mandatory Programs Over Volunteer Programs." *Zoning Practice*, The American Planning Association, September 2004.
- 2 *Inclusionary Housing in California: 30 Years of Innovation*. Non-Profit Housing Association of Northern California and California Coalition for Rural Housing, June 2003.
- 3 Basalo, Victoria and Nico Calavita (2004), "Policy Claims With Weak Evidence: A Critique of the Reason Foundation Study on Inclusionary Housing Policy in the San Francisco Bay Area." Available at www.nonprofithousing.org/actioncenter/campaigns/index_atomic.
- 4 David Paul Rosen and Associates (2002). *City of Los Angeles Inclusionary Housing Study*. Prepared for: Los Angeles Housing Department, September 25, 2002.
- 5 Homebuilders of Northern California vs. City of Napa, 90Cal.App 4th188.

State Housing Trust Funds

- 1 The Non-Profit Housing Association of Northern California (2005). *Making the Bay Area A More Affordable Place to Live: Progress Report on the Housing and Emergency Shelter Trust Fund Act of 2002*, May 2005.
- 2 Data on the number of housing trust funds are collected by the Center for Community Change. Because the field is changing so rapidly, it is hard to get an exact count of the number of housing trust funds in the United States.
- 3 In their original intent, housing trust funds were designed to be sources of public funding for affordable housing, and do not rely on corporate contributions, foundation grants, or bank commitments to be sustainable. Still, as employers increasingly recognize that housing affordability has a serious impact on their workers, promising models for cross-sector collaboration in the establishment of affordable housing trust funds are emerging.
- 4 Jeff Gray, Arizona Department of Housing. Personal communication 8/25/2005.
- 5 Arizona Department of Housing (2005). "Governor Announces Continuation of State Funding for Tribal Housing," *Information Bulletin*, August 15, 2005.
- 6 Gordon Pang (2005). "Conveyance tax hike will likely pass today," *Honolulu Advertiser*, May 3, 2005.
- 7 The rest of the revenues generated from the transfer tax are directed to the state general fund (50 percent) and to the Natural Area Reserves System (25 percent).

- 8 Gordon Pang (2005). "Conveyance tax bill becomes law." *Honolulu Advertiser*, June 24, 2005.
- 9 Gordon Pang and Derrick DePledge (2005). "Taxes on real estate purchases may go up," *Honolulu Advertiser*, April 30, 2005.
- 10 Information on the Olene Walker Housing Trust Fund can be found online at http://community.utah.gov/housing_and_community_development/OWHLF/index.html.
- 11 PolicyLink (2005). *Expanding Opportunity: New Resources to Meet California's Housing Needs*. PolicyLink, California.

Not just your granny's flat (Box 3.1)

1. Gwen Mickelson, "Housing Prices Smash Record Again: Fewer County Residents are able to Afford Soaring Cost of Homes." *Santa Cruz Sentinel*, July 8, 2005. Available at <http://www.santacruzsentinel.com/archive/2005/July/08/local/stories/06local.htm>
2. "Out of Reach 2004," National Low Income Housing Coalition. Available at http://www.nlihc.org/oor_current/table3.htm

Figures

Figures 1.1 & 1.2: JCHS tabulations of the 2000 Census Supplemental Survey and the 2003 American Community Survey. Reprinted from *The State of the Nation's Housing 2005* with permission from the Joint Center for Housing Studies of Harvard University. All rights reserved.

Figure 1.3: Office of Federal Housing Enterprise Oversight (OFHEO). "U.S. House Prices Continue to Rise Rapidly," June 1, 2005. Data are reported for period ending March 31st, 2005.

Figure 1.4: Federal Deposit Insurance Corporation, *2005 State Profiles*, accessible at <http://www.fdic.gov/bank/analytical/stateprofile/index.html>. Data are for December 2004 and reflect the average annual growth for the preceding year. Washington data are for September 2004.

Figure 1.5: HUD's Fair Market Rents for 2004, based on methodology developed by the National Low Income Housing Coalition. Adapted from *The State of the Nation's Housing 2005* with permission from the Joint Center for Housing Studies of Harvard University. All rights reserved.

Figure 1.6: U.S. Department of Housing and Urban Development, Low Income Housing Tax Credit Database.

Figure 3.1: Center for Community Change (2005) www.communitychange.org