



Inclusionary Housing – An Answer for Equitable Communities?

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Background

- Interest in inclusionary housing accelerated during the early 2000s, as home prices rose rapidly in many communities and many families found themselves out priced from the home and rental markets.
- In July 2014, Detroit Councilmember Mary Sheffield asked for assistance in developing strategies for targeted inclusionary housing policy(s) in Detroit.
- Part of that effort was conducting national best practice research and convening local housing experts and practitioners to review the best practices and evaluate them in light of Detroit's housing market.



Affordable vs. Cheap Housing

- Affordable Housing:
 - Refers to housing units that are permanently affordable by that section of society whose income is below the median household income.
 - Is intentional and long-term.
 - Typically includes minimum standards for housing quality that are tied to the units.



- Cheap housing:
 - Housing is random as it is tied to the current economic climate and can change over time with the market.
 - Is often of poor quality with little, if any, opportunities and resources for residents to improve the housing condition.



Inclusionary Housing Policies In Place

- It is estimated that currently there are over 400 mandatory inclusionary housing policies throughout 17 states and the District of Columbia, while voluntary policies operate in several additional states.



- Inclusionary housing policies require or encourage developers to include a small percentage of homes/condos/rental units for low- or moderate-income households in otherwise market-rate developments.
- In all forms, inclusionary housing policies seek to create diverse neighborhoods and broaden the array of affordable housing options available.



- Most inclusionary policies are implemented through mandated ordinances often accompanied by zoning codes and other forms of regulatory relief to help offset the costs of pricing units affordably.



- In practice, inclusionary housing is land use policy as much as it is an affordable housing regulatory policy.
- The advantage of inclusionary housing policy as a tool is its flexibility, as it can be applied locally and does not require significant state or federal intervention



Municipalities with Inclusionary Housing Policies in Place

- Boston, MA
- Boulder, CO
- California
 - Oakland
 - San Francisco
 - San Luis Obispo
 - Walnut Creek
- Montgomery County, MD
- Washington, DC



Common Elements of Inclusionary Housing Ordinance

- The most successful ordinances are mandatory in all new developments, condominium conversions and unit rehabilitations.
- They also include compensatory benefits for the developer.



- Density bonus that allows the developer to build more units on a parcel of land than otherwise allowed.
- Expedited permitting and reduction or waivers of permit fees.
- Local government may offer direct financial assistance to developments to offset the costs of producing affordable units.



- Payment of a various fees:
 - “In lieu fee” of providing affordable units. This may seem to defeat the purpose of inclusionary zoning but in some cases, the cost of building/rehabilitating one affordable unit on-site can purchase several affordable units off-site.
 - Other types of fees can help subsidize housing for the poorest members of the community as units tend to be affordable only at the higher end of the low-income scale.



- *Example:* Walnut Creek California states that any development with more than 26 units must include a 7% set aside for low-income families and 6% for lowest income. The fees (based on their rental market) range from \$2/sq ft to \$15 sq/ft depending on the total number of units constructed.



- No permits, design reviews or rezoning requests are processed until these conditions are met.
- A monitoring system is put in place to not only collect the fees but ensure they are being applied toward construction or renovation benefiting very low, low, and moderate income households



What is Affordable?

Providing a clear definition of number of affordable units, which will not only meet ordinance requirements but also trigger available developer incentives.

- Percentages range from 10 to 30%; 15% appears to be the norm.
- Very small developments may be excluded from the ordinance.



Household Income Levels

- The ordinance should specify the household income levels for eligibility.
- Most ordinances use a percentage of the jurisdiction's Area Median Income (AMI) to determine eligibility, usually including 30%, 60% and/or 80% AMI.

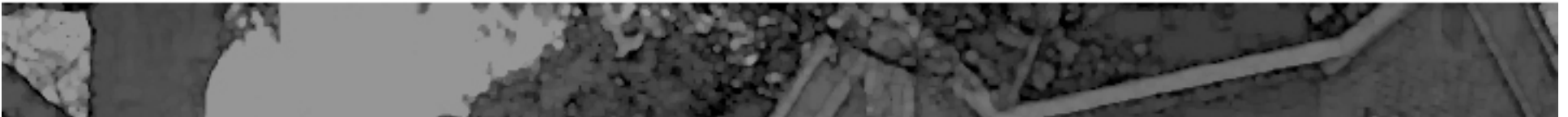


Assurance of Continued Affordability

- Unless the jurisdiction places explicit restrictions on the future owners and tenants, “affordability” may be temporary.
 - The ordinance may require units to remain affordable in perpetuity or it may specify a period of years during which units must remain affordable (in some cases 45 – 55 years).
 - The ordinance may also specify that affordable units must continue to be available only to income-qualified renters/purchasers.



- Requirements that there is some measure of comparability between market-rate and affordable units in the same development (appearance, location, on-time construction with other units, etc.).



Owner-Occupied Housing

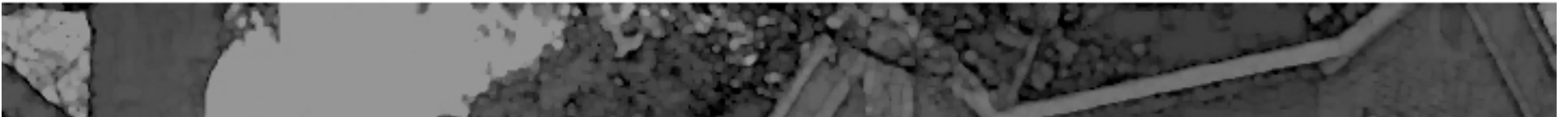
- Policy alone cannot be expected to result in the production of single-family, detached homes (which are often built on large lots), at a price low enough to be affordable for low-income families.
- Requirements or incentives for the inclusion of affordable housing must be coupled with the flexibility to produce lower-cost housing types in conjunction with more traditional single-family homes.



- While suburbs remain the predominant location for new housing construction, development patterns are shifting toward compact, transit-served neighborhoods closer to the regional core, a trend found in many of the nation's large metropolitan areas.
- For this reason, policies need to be adapted to infill development.



- Land use policies (including zoning) can also facilitate inclusionary housing development by allowing for more dense development with smaller lot sizes or developments that combine attached and detached housing types.



Condominium Conversions

- Cities have broad policy authority to both support condominium conversions from rental to owned units and to enact restrictions on conversions.
- Two sides to whether condo conversions should be promoted as a homeownership strategy:
 - Conversions, with tenant protections in place, are an effective way to upgrade aging housing stock and to encourage homeownership – often seen as a key to revitalizing neighborhoods and increasing assets.
 - Removing lower-priced rental units from the market and converting the units to market-rate housing reduces the supply of affordable housing.

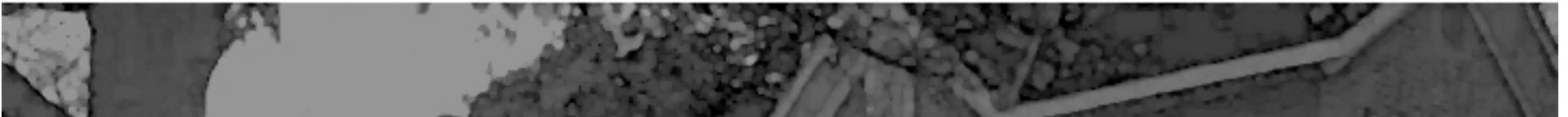


- Some form of protected tenancies for % of former renters.
- Non eviction plan/first right of refusal to purchase.
- Reimbursable relocation expenses.
- Protection against harassment.
- Defined “high impact areas determined to be those areas where rental housing supply is negatively impacted by conversions. Stipulations may include a percentage of units that must remain as rentals (typically 3 – 7 years).



Rental Units

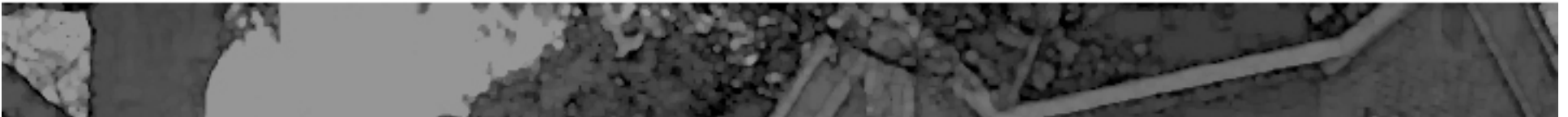
- Integrating affordable rental units throughout a community, as opposed to clustering units in one location, reduces issues around concentration of low-income units and provides a greater array of housing options, resulting in increased economic diversity.
- The ultimate goal is to simply ensure that within the extent legally permissible, municipalities will have a mixture of very low, low and moderate-level units built within each new or renovated housing development.



- Inclusionary units must be dispersed throughout a project and comparable in construction quality and exterior design to the market rate units.
- All inclusionary units must be constructed and occupied before or at the same time as market rate units.



- Mandate that rental housing developers sign a conversion agreement detailing a fee must be paid in the event a rental development converts to an ownership development within a specified period of time.
- Permanently affordable is defined and exact terms of the resale restriction are contained in a covenant recorded against each property.
- Permanently affordable units also must be occupied by income-eligible households



Developer Incentives/Bonuses

National Best Practices	Input from Detroit Experts
Allows the developer to build more units on a parcel of land than otherwise allowed.	Density standards should apply in only certain targeted areas as defined by zoning codes.
Expedited permitting and reduction or waivers of permit fees.	Expedited permits, not reduction in fees.
Local government may offer direct financial assistance to developments to offset the costs of producing affordable units.	Land prices can be reduced but only for units dedicated as affordable.
Utilize public monies in the form of grants and various forms of tax abatements.	Tax abatements could be for a dedicated number of years tied to % of affordable housing (sliding scale).



Regulatory Flexibility

National Best Practices	Input from Detroit Experts
<p>Possible relaxation of development requirements for projects that include affordable housing units such as reductions in road paving and rights of way or providing more flexible standards that would result in lower costs, such as allowing odd lot shapes or a mix of housing unit types.</p> <p>Offering expedited permitting and reduction or waivers of permit fees for developments including affordable units.</p>	<p>Work with MSHDA to ensure low-income tax credit dollars are utilized to ensure long-term housing.</p> <p>Work with “high-road developers” in setting compliance standards.</p> <p>Employ deed restrictions/Liens to ensure compliance.</p>
	<p>Tie zoning approvals to affordable housing formulas (must produce number of units to be granted variances).</p>



In Lieu Fees

National Best Practices	Input from Detroit Experts
<p>A monitoring system is put in place to not only collect the fees but ensure they are being applied appropriately.</p>	<p>Accept in-lieu fees if standards are established and monitored.</p>
<p>Setting the fee level as high as the cost of making the units affordable without other public subsidy. In other words, the developer's decision to build/rehabilitate units or pay fees should be revenue-neutral, and the fees should be able to fund at least as many units as would have been required of the developer.</p> <p>Of note, the fee should not be so low as to give developers the incentive to pay it rather than to include affordable units in developments.</p>	<p>Do the dollars received actually offset cost of constructing affordable units?</p>



National Best Practices

Dedicate the fees to a capitalized housing trust fund that could be used to provide:

- Financial assistance for future inclusionary housing developments/rehabilitations.
- Direct assistance to families needing housing, including a rent subsidy for the lowest-income families.

Input from Detroit Experts

Set up a housing trust fund but must be strategic in determining how fees are applied – to whom and for what purpose.

Have to protect against displacement so do not let fees be used as a reason for allowing displacement.

Developer partners with community re: how fees are used for neighborhood planning.

A sliding scale fee structure using a 20% income threshold, should be used to encourage the development of mixed income rental units in areas with a high density of market rate units.

Affordability Today and Over Time

National Best Practices	Input from Detroit Experts
<p>A clear definition of the “affordable” units, which both meet ordinance requirements and trigger available developer incentives [bonuses]. Specifications for the minimum percentage of affordable units in each new development (typically 10 – 30%).</p>	<p>10 – 30% for developments with any kind of construction subsidy.</p>
<p>May require units to remain affordable in perpetuity or it may specify a period of years during which units must remain affordable.</p>	<p>Agreed that it must be long-term; debate over whether 45 or 55 years was too long for it to be manageable by the developer/owner.</p>

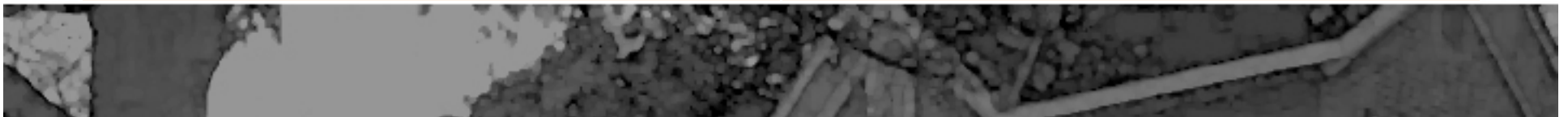


National Best Practices	Input from Detroit Experts
<p>A percentage of affordable units continue to be available to individuals meeting certain criteria, in particular, the elderly, handicapped/disabled and low-income (protected tenancies).</p>	<p>Increase developer fee to ensure long-term affordability.</p> <p>Set a resale cap that is % based (owner can realize some profit after a period of time).</p> <p>Uncertain if specific groups need to be protected or if the focus should be on low- and moderate-income households that would capture the same groups.</p>
<p>Should specify the household income levels for eligibility.</p>	<p>Ensure a process of eligibility that allows for residents to apply but also guarantees an income stream to the owner/developer.</p>



Resident Accommodations

National Best Practices	Input from Detroit Experts
<p>Some form of “non-eviction plan” that protects tenants.</p> <p>Some provision for reimbursable relocation/moving expenses, ranging from \$250 - \$1000.</p> <p>Protections against harassment.</p> <p>Opportunities for tenants to have first right of refusal to purchase their units in the case of a condo conversion.</p> <p>Standard notification plan with minimum of 180 days to vacate.</p>	<p>Avoid displacement if possible.</p> <p>Assist with moving expenses, including packing. Provide counselors. Recognize developers are not relocation experts and work with community organizations to provide such services.</p> <p>Proper notification (look at HUD standards).</p>



Additional Comments

- There was debate as to whether an ordinance should be applied citywide or in areas determined to be high impact or at risk. For example, those areas where the affordable rental housing supply is negatively impacted by condo conversions should be targeted.
- At the same time, Detroit needs a citywide needs assessment and housing plan that looks beyond certain targeted areas.
- Requires commitment from city agencies to streamline the process.



- Developers wanted to know up front what their obligations would be so these could be calculated into the cost of the project – “no surprises for either developer or community”.
- This is an opportunity for the private developers to work hand-in-hand with community based development and service organizations to strengthen neighborhoods.



- How difficult is it to implement inclusionary zoning city-wide because of the difference in the housing market?
- Focus on collecting various fees. For example, can raise \$ by using a % of land transfer and recordation fees for everything (homes, businesses, developments). This ties affordable housing to economic growth.



- If city gives or sells land to developer at below-market rates, can raise \$ by asking developer to contribute a fee that reflects a portion of the value of the land. If the true land value is unknown, can use “comps”.

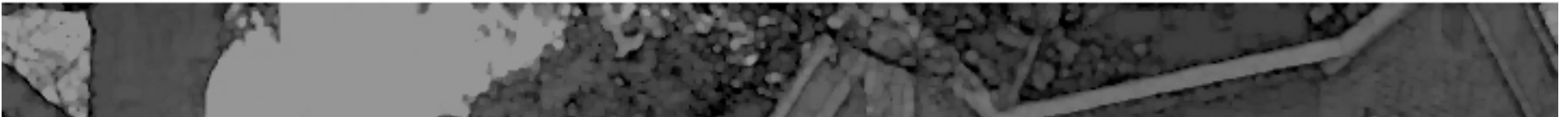


- Can raise \$ by establishing commercial building fees. For example, in Boston \$7.52 is collected per square foot on any building over 100,000 sq. feet, to be paid over 5 years.
 - In addition, commercial builders pay a \$2 per sq foot fee strictly for job training, payable over 2 years.



Concluding Comments

- Inclusionary housing policy is but one mechanism to ensure certain % of residential projects will be affordably priced.
- These policies can, however, help address economic and racial segregation by creating more diverse communities.
- Providing housing options for low-wage earners within high cost communities can address local mismatches between jobs and housing.



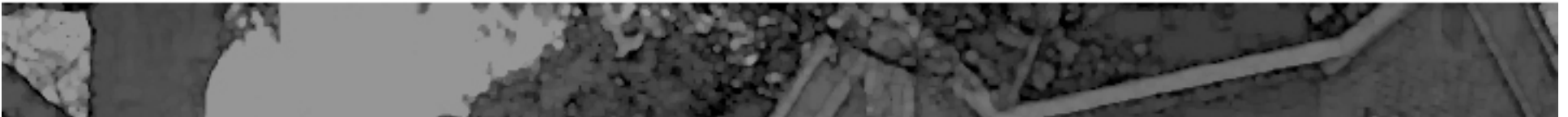
- Elements of inclusionary housing policies that can be effective:
 - Justify inclusionary housing policies under police power.
 - Utilize a fee to support affordable housing construction/rehab. The fees can be used to subsidize production of units independent of the kind of project in which the fee is assessed. Note formulas have been devised by municipalities.



- Adopt a fee per building sq. foot to help meet the need for housing generated by commercial/industrial development which in turn, would generate workers needing housing.
- Set up a Housing Trust Fund to fund construction but also housing assistance programs, etc.



- Revise zoning codes to support inclusionary housing policies.
- Reserve a number of building permits and grant bonus “points” for developments including affordable units.
- Monitor and evaluate inclusionary housing policies elsewhere to gain lessons learned.



Examples of Ordinances

- Boulder, CO: <https://bouldercolorado.gov/housing/inclusionary-housing>
- Montgomery County, MD: <http://www.montgomerycountymd.gov/mpdu>
- Oakland, CA: <http://www2.oaklandnet.com/government/o/hcd/inc>
- San Francisco: <http://sf-moh.org/index.aspx?page=263>
- San Luis Obispo County, CA:
[http://www.slocounty.ca.gov/planning/Housing and Economic Development/inclhousingord.html](http://www.slocounty.ca.gov/planning/Housing_and_Economic_Development/inclhousingord.html)
[http://www.slocounty.ca.gov/planning/Housing and Economic Development/inclhousingord.htm](http://www.slocounty.ca.gov/planning/Housing_and_Economic_Development/inclhousingord.htm)
- State of Massachusetts:
[http://www.mass.gov/envir/smart growth toolkit/bylaws/IZ-Bylaw.pdf](http://www.mass.gov/envir/smart_growth_toolkit/bylaws/IZ-Bylaw.pdf).
- Walnut Creek, CA: www.walnut-creek.org
<http://www.walnut-creek.org>
- Washington DC: <http://dhcd.dc.gov/service/inclusionary-zoning-affordable-housing-program>

Good example of a handbook for developer and tenants being displaced (New York City):

<http://www.ag.ny.gov/sites/default/files/pdfs/publications/COOP%20CONDO%20Conversion%20Handbook.pdf>

