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Expanding Housing Options through Inclusionary Zoning

By Paul Fischer and Jo Patton

The widespread shortage of affordable housing is prompting some local governments to rethink conventional zoning in order to expand the variety and availability of their housing stock. One innovative tool is inclusionary zoning. This enables local governments to use their zoning powers to foster development of affordable housing by requiring developers to include affordable options when they build market-rate housing.

Many inclusionary housing programs offer incentives that reduce the developer's project costs. This can be accomplished with such methods as reduced or deferred developer fees, density bonuses, land purchase assistance, bond financing and reduced traffic/parking provisions. In addition, by requiring affordable housing to be built alongside market-rate housing, many inclusionary housing ordinances avoid segregating lower-cost housing.

Since Montgomery County, Md. passed an inclusionary zoning ordinance in 1974, over 10,000 units of affordable housing have been developed.

Montgomery County, Md. has the best-known program nationally, permitting denser clusters of housing in return for more affordable units. Other communities, from California to Massachusetts, have adapted the concept to meet local customs and needs.

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- legislative models from other states
- impact of technology on real estate
- transportation alternatives
- techniques for traffic calming
- incentive packages for housing development
- housing choice vouchers

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Ordinances

What Is Inclusionary Zoning? The Montgomery County Model

Over the past 25 years, Montgomery County, Md., just north of Washington, DC, has championed a program to address the lack of affordable housing near employment centers. In 1974, the county council passed an inclusionary housing ordinance that required all new subdivisions of 50 units or more to set aside up to 15 percent of the units for low and moderate income families, one-third of which could be purchased by the local housing authority or a non-profit agency.

In return, the developer became eligible for a density bonus of up to 22 percent beyond what the zoning allowed. The 50-unit minimum was chosen to capture at least half the units being built in the county and to be of sufficient scale to successfully integrate a variety of housing types and prices.

Developers choosing not to build affordable housing were required to pay equivalent costs into a county fund, which would ensure that the low-cost units were developed.

Since passage, builders have delivered over 10,000 units of affordable housing, with over 1,600 of those purchased by the county housing authority and/or nonprofit agencies for rental to lower income residents. The ordinance also has benefited employers by expanding housing options for workers. Initial concerns that the ordinance would discourage housing construction went unrealized, and the county has enjoyed one of the strongest housing markets in the country.

Debunking the "Property Values" Myth

Studies show that locating affordable and/or subsidized housing within high-end developments does not undermine housing values, as many claim. One study by the Innovative Housing Institute, which looked at 14 communities with set-aside units, showed no significant difference in price trends between housing in inclusionary developments and the market as a whole.[1] In all cases, the inclusionary housing ordinance is expected to benefit

1) developers, by offering new incentives,

2) the municipality, by providing greater housing options for all residents, and

3) employers, by making housing affordable for workers.

The study helps allay concerns that lower-cost housing will affect property values in the surrounding communities. It found no difference in price behavior between units within 500 feet of a subsidized unit and those further away, and no difference between market-rate units next to subsidized units and those farther away.

Another study, released in September 2000 by the Family Housing Fund of Minneapolis, examined 12 developments containing units subsidized with federal housing tax credits.[2] It found that sales of surrounding market-rate housing exhibited "similar or stronger performance" following construction of the subsidized units.

Anecdotal evidence also abounds: some developers in Montgomery County who were skeptical of the program at its outset are now among its most enthusiastic supporters.

PHOTO COURTESY OF ERIC LARSEN, MONTGOMERY COUNTY DIVISION OF HOUSING.

Results of Montgomery County's inclusionary zoning ordinance. The moderately priced units on the left sell for $88,000 each; the market-rate units on the right and in the background sell for $250,000 each.

Inclusionary Housing Around the Country: Case Studies

Though Montgomery County has the oldest program in the country, many other local governments have adopted inclusionary zoning programs to expand housing opportunities in their communities. In most cases, the goal is to increase the number of affordable housing units while avoiding concentration of housing for lower-income families in any one area.

Some important variables in inclusionary housing programs include:

- *Set-aside requirements*, or the percentages of total units in the development that must be reserved from the market-rate units and sold or rented at an affordable price;
- *Cost offsets/developer incentives*, which are designed to compensate developers for losses associated with the sale or rental of units below market rates. Density bonuses, for instance, allow developers to build more units per acre when affordable housing units are included in the development. Other cost offsets include impact fee waivers, flexible design requirements and expedited permit processing;
- *Target populations* set the household income level (generally expressed as a percentage of the area median income) which determines who is eligible to purchase the affordable units;
- *Affordability control periods,* or mechanisms to maintain the affordability of units developed through inclusionary housing programs over time; and
- *Alternatives to on-site affordable units*, such as affordable housing units at other sites or "in-lieu-of" payments used by other developers to meet the ordinance goals.

Case Studies

Colorado & California

The following case studies illustrate the flexibility of inclusionary housing programs in addressing the needs of very distinct municipalities.

Case Study #1

Longmont, Colorado

Longmont is located in Boulder County almost 40 miles from Denver. The town experienced a tremendous population boom between 1960 and 1980 and continues to grow, fueled by job growth in high-tech firms locating in the region. In the 1990s, Longmont began to confront the problems of an increasingly expensive housing market that was moving beyond the reach of longtime residents and local workers.

In 1995, the Longmont City Council approved an annexation program that requires 10 percent of all housing to be built on land approved for annexation be affordable to households at or below 80 percent of the area median income ($74,000 for a family of four). Rentals must be affordable to households at or below 60 percent of the area median income ($44,400 for a family of four). Each phase of the development is required to include 10 percent affordable units to avoid concentration in one section of the development. This provision also precludes deferral of the construction of affordable units until the end of the construction process. In some cases, constructing affordable housing at a different site can satisfy the requirement, but, once again, the construction must be concurrent with that of the market-rate units. Longmont also provides an option to developers for in-lieu-of payments that the city uses to develop affordable housing.

Developers in the annexation program are eligible for cost offsets, including smaller setback requirements and reduced parking requirements. Longmont does not set an affordability control period for the for-sale units. However, it does require that rental units remain at affordable levels for a minimum of five years.

Five years into the program, 352 affordable units were either under construction or completed, and another 35 had been proposed.

Case Study #2

Irvine, California

Irvine is one of the nation's largest planned communities, with an estimated population in 1998 of more than 130,000 residents. Irvine's inclusionary housing policy grew out of the settlement of a lawsuit. It required the Irvine Company, which controls virtually all of the land available for development in the city, to construct 700 units of affordable housing. The policy is credited with producing 3,400 units of low and moderate income housing by setting a 15 percent set-aside goal for affordable units in all new developments.

Although California has a Density Bonus Law, passed in 1979, that requires municipalities to provide developers of affordable housing a 25 percent density bonus, developers in Irvine relied more on local incentives such as fee waivers and expedited permitting. The Irvine program provides for an affordability control period of 20 to 30 years, depending on financing.

Longmont, Colo.'s five-year-old annexation program is credited with creating 352 affordable units. Irvine, Calif.'s three-year-old program has created 3400 units.

Case Study #3

Boston, Massachusetts

Boston launched an inclusionary housing program in February 2000 by mayoral executive order. Housing options for low and middle income Boston residents had shrunk during the 1990s as gentrification drove housing prices up.

Mayor Thomas Menino signed an executive order requiring that 10 percent of any development of more than 10 units be affordable. This order applies to developments seeking any zoning relief, built on property owned by the city, or financed by the city. It requires an in-lieu-of payment, now set at $52,000 per unit of affordable housing. A developer also has the option of developing affordable housing at a separate site, but the number of affordable units is then set at 15 percent of the total market-rate units.

Case Study #4

Highland Park, Illinois

A North Shore Chicago suburb that prides itself on its history of religious pluralism and tolerance, Highland Park has seen a significant decline in the diversity of its housing and residents in recent decades. These trends accelerated in the 1990s with a significant increase in the median sale price for homes and a decline in the number of rental units. In response to this trend, the Highland Park City Council began to assess the need for affordable housing and identify options for increasing the availability of such housing. As part of that process, five groups of people were identified as needing affordable housing:

- workers employed in Highland Park but unable to afford living there;
- seniors living on fixed incomes;
- single-parent families;
- young residents, many of whom grew up in Highland Park, seeking starter homes; and
- people with disabilities, who need both affordable and accessible housing.

As the final stage in the planning process, the council recently voted to add an affordable housing plan to its master plan. The plan identifies a range of strategies to promote the development of more affordable housing, including creating a land trust, promoting employer-assisted housing and adopting inclusionary zoning initiatives. The inclusionary zoning recommendation proposes that developers set aside a percentage of units as affordable in developments above a threshold size. Additionally, a provision allows these developers to pay a fee instead of constructing affordable units.

From 1974 to 1999, 1,814,669 housing permits were issued in the six county Chicago region. Had an inclusionary zoning program been in place, 136,000 of those units might have been set aside for lower-income households.

The Chicago Region: a Shrinking Supply of Affordable Housing

The Chicago Region

In 1998 the Metropolitan Planning Council (MPC) released a study, *Housing for a Competitive Workforce: Homeownership Models that Work*, that showed that homeownership costs in the region's high job-growth corridors were well beyond the reach of the local workforce.[3]

In 1999, MPC published a *Regional Rental Market Analysis*, which further demonstrated that the rental market no longer provided a backup for families unable to purchase homes. The study cautions that "the rental inventory is shrinking, rent increases are exceeding the consumer price index, and the overall market, as measured by the 4.2 percent vacancy rate, is tight." Despite rapid population and employment growth in the collar counties (the five counties surrounding Cook County), 79 percent of the region's 1,066,800 rental units are in the City of Chicago (602,000) or suburban Cook County (238,600).[4]

The low vacancy rate in the region as a whole masks significant differences among areas of the region that have profound racial and class implications. Most of the tightest rental markets are in affluent and predominantly white communities. Northern Cook, Lake, DuPage and McHenry counties, as well as Chicago's North Side, were at or under 4.3 percent. The highest vacancy rates were found on the South and West sides of Chicago – low-income areas with large African-American populations. Vacancies also ran above average in Will and Kane Counties on the periphery of the metropolitan area.[5]

Why apply the principles of inclusionary zoning in the Chicago area?

Traditional theories of supply and demand would suggest that a market with a growing demand for rental housing would be rapidly producing a new supply. But while forecasts estimate demand for approximately 40,000 new units per year in metropolitan Chicago, the region has been adding only about 31,000 units per year, almost all of it housing for purchase. As a result, in a decade in which population expanded by 500,000, the private rental stock shrank by 52,000 units, and the public housing stock shrank by 13,000 units.

Studies identify community resistance to affordable housing and stereotypes about tenants in affordable housing as the primary market-distorting barriers to its development. This resistance is often reflected in local zoning ordinances that limit development of multifamily housing. Inflexible building codes, lengthy permit review periods and high land costs also contribute to the shortage. Together, these barriers are often referred to as "exclusionary zoning."

PHOTO COURTESY OF ERIC LARSEN, MONTGOMERY COUNTY DIVISION OF HOUSING.

This Montgomery County, Md. duplex unit shares a garage and has another entrance on the side.

What if the Montgomery County approach to inclusionary zoning had been implemented in the Chicago metropolitan area over the past 25 years? Would the rental market still be so tight, with a significant shortage of housing affordable to lower-income households? Or would there be fewer rent-burdened families, a less segregated market and less distance between affordable housing and available jobs?

In the six county Chicago metropolitan area, 1,814,669 housing permits were issued from 1974 to 1999. If 50 percent of those had been covered under a region-wide Montgomery County-type inclusionary housing requirement, then approximately 907,000 units would have been subject to the ordinance. If Montgomery County requirements were then applied, the Chicago region would have gained some 136,000 affordable units, 45,000 of which could have been bought by local public housing authorities.

During that same 25-year period, the City of Chicago issued 262,333 permits, or roughly 15 percent of the available rental housing.

The Future

An inclusionary housing ordinance could provide significant new housing options to individuals and families. However, adopting inclusionary housing policies in the Chicago area will be a challenging task. Montgomery County wields zoning and land-use regulatory power over 90 percent of the county. The Chicago region, by contrast, is governed by six counties that regulate land only in unincorporated areas and by more than 260 municipalities that control zoning and land use in most of the region.

Therefore, to adopt a Montgomery County-type strategy in the Chicago region would involve a locally coordinated effort. Such an effort would need to involve government officials, housing developers, affordable housing advocates, major employers and community groups. Communities would need to see the benefits of such a policy – from providing housing for the workforce, to reduced traffic congestion and travel times if workers lived closer to jobs.

Inclusionary Housing Programs around the Country

	Affordable Units Produced	Threshold Number of Units	Affordable Set-aside Requirement	Control Period	In-Lieu-of Payment/ Off-site Development	Density Bonus	Other Developer Incentives
Boston, Massachusetts 2000	–	Developments exceeding 10 units	10% of on-site units	Maximum allowable by law	May build off-site if 15% of all units affordable; in-lieu-of payment permitted	None	Tax break for developer
Boulder, Colorado 1999	–	No threshold number – applicable to all residential developments	20% in for-sale and rental developments (depending on project size)	Permanent affordability by deed restriction	Half of for-sale units may be built off-site. Developers have flexibility with on/off-site mix of rental units	None	Waiver of development excise taxes
Davis, California 1990	1,474	Developments exceeding 5 units	25% in for-sale developments; 25% in rental developments (depending on project size)	Permanent affordability for rental units; No control period for for-sale units	In-lieu-of payment permitted for developments under 30 units or demonstration of "unique hardship"	25%	None
Fairfax County, Virginia 1991	1,723	Developments exceeding 50 units (fee charged on projects with fewer than 50 units)	12.5% in single-family home developments; 6.5% in multifamily developments	15 years for forsalehousing; 20 years for rental housing; local housing authority may purchase 33% of all units to keep affordable	Not permitted	20% for single-family units; 10% for multifamily units	None
Irvine, California 1978	More than 3,400	No threshold number – applicable to all residential development	Voluntary goal: 15% of all units	20 - 30 years; determined case-by-case depending on financing	In-lieu-of payments and other alternatives to on site-units permissible	25%	None currently offered (parking, fees and permitting incentives may be reintroduced)
Longmont, Colorado 1995	104 of 352 anticipated	No threshold number – applicable on all annexed land	10% of all units in annexation areas	No control period for for-sale units; 5 years for rental units	May make in-lieu-of payment to affordable housing fund; case-by-case consideration of off-site construction	Yes	Relaxed regulatory requirements on parking, setbacks, landscaping etc.
Montgomery County, Maryland 1974	More than 10,000	Developments exceeding 50 units	12.5–15% of all units. Of these, local housing authority may purchase 33%; qualified non- profit organizations	10 years for for-sale units; 20 years for rental units	In-lieu-of payments not permitted; may request approval to build affordable units off-site in contiguous planning area	Up to 22%	Waiver of water/sewer development charge and development impact fees; 10% compatibility allowance and other incentives
Santa Fe, New Mexico 1998	1	No threshold number – applicable to developments with any unit targeted to over 120% of area median income (sale price over $240,000)	may purchase 7%. 11% in developments with homes priced $240,000 -$400,000; 16% in developments with homes priced over $400,000	30 years for all units; 30 year period starts over with each new occupant	Not permitted, except in case of economic hardship	Bonus equivalent to set-aside percentage;16% in developments targeting under 80% of area median income (sale price $150,000)	Waiver of building fees

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Endnotes

1 Siegel, Joyce, *The House Next Door,* Innovative Housing Institute, 1999. http://www.inhousing.org/housenex.htm

2 Maxfield Research Inc., *A Study of the Relationship Between Affordable Family Rental Housing and Home Values in the Twin Cities* (Minneapolis: Family Housing Fund, Sept. 2000). http://www.fhfund.org

3 Schubert, Michael, *Housing for a Competitive Workforce: Homeownership Models That Work* (Chicago: Metropolitan Planning Council, 1998). http://www.metroplanning.org

4 *For Rent: Housing Options in the Chicago Region*. (Chicago: Metropolitan Planning Council, 1999), 47. http://www.metroplanning.org

5 *Ibid.*

Resources

City of Boulder: A chronicle of the city's considerations in deciding whether to adopt a Comprehensive Housing Strategy
http://www.ci.boulder.co.us/clerk/previous/list/990216/12.html

Innovative Housing Institute
http://www.inhousing.org/

The Enterprise Foundation
http://www.enterprisefoundation.org/

The HUD Home Page
http://www.hud.gov/

National Association of Housing and Redevelopment Officials
http://www.nahro.org/

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The Campaign for Sensible Growth is an action-oriented coalition of government, civic and business leaders in northeastern Illinois' six counties working to promote economic development while preserving open space, minimizing the need for costly new infrastructure and improving the livability of our communities.

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