

INCLUSIONARY HOUSING: CREATING AND MAINTAINING EQUITABLE COMMUNITIES

By Rick Jacobus

The need for affordable, high-quality housing has never been more urgent. In many cities, skyrocketing housing costs are displacing lower-income households, segregating neighborhoods, and forcing residents to sacrifice quality or location for price. Unequal access to housing drives sprawling development patterns; worsens traffic congestion; pollutes the air; increases taxpayer dollars spent on basic infrastructure; decreases racial, cultural, and economic diversity; and perpetuates inequality.¹ Thus, in response, more than 800 U.S. communities have developed and enacted inclusionary housing policies to create mixed-income developments and increase economic inclusion.²

Inclusionary housing (also called inclusionary zoning) refers to a range of local policies that tap the economic gains from rising real estate values to create affordable housing—tying the creation of homes for lower-income households to the construction of market-rate residential or commercial development. In its simplest form, an inclusionary housing program might require developers to offer a certain percentage of new residential units to lower-income households at rents or prices that they can afford.

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For cities struggling to maintain economic integration, inclusionary housing is one of the most promising strategies available; well-designed programs can generate significant affordable housing resources without overburdening landowners or limiting development. Inclusionary housing is also one of the few proven strategies for providing affordable housing in asset-rich neighborhoods, where residents are likely to benefit from access to quality schools, public services, and better jobs; the policies are also critical to ensuring that transit-oriented development occurs in an equitable manner.

Faced with declining federal and state resources for affordable housing, communities need to take full advantage of every potential tool. For many jurisdictions across the country, now is the time to consider adopting robust, carefully designed inclusionary housing policies that increase affordable housing stock and create inclusive communities.

In Williamsburg, Brooklyn, the developer of this luxury tower called the Edge (background), where condos can sell for millions of dollars, also built the Edge community apartments (foreground) where units rented for as little as \$886 per month at the time of opening. Credit: NYC Department of City Planning.



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Designing Inclusionary Housing Policies

No two communities are exactly alike, and no two inclusionary housing policies should be identical, either; policy makers must create programs that suit local conditions. While every policy should address the considerations listed below, how each does so will differ considerably from place to place. Factors to consider may include:

Mandatory or Voluntary Program Structure:

Most inclusionary housing programs mandate the provision of on-site affordable units in market-rate developments. Developers may receive incentives such as increased density to offset costs, but they must provide affordable units. A small number of voluntary programs are structured to offer incentives in exchange for affordable units, but in practice these have succeeded only with extremely valuable incentives.³

Set-Aside Requirements: Cities typically establish a percentage of each new building that must be set aside for affordable housing; most programs require between 10 and 20 percent of units. These requirements usually apply both to rental projects, which must provide a share of units at affordable rents, and to ownership projects, which must sell a share of units at affordable prices.

Income Level of Beneficiaries: Inclusionary housing alone cannot possibly meet all local housing needs, and cities must therefore consider how best to serve people at different income levels. Making homes affordable to lower-income residents costs more, so some programs require relatively few units targeted to such households, while others require more units but for residents at slightly higher income levels.

Incentives: Many cities provide incentives designed to reduce the economic burden on developers that provide affordable units. The most common offset for such requirements is the ability to build with increased density, but other common incentives include parking or design waivers, zoning variances, tax abatements, fee waivers, and expedited permitting.

Off-Site Development: Cities offer developers opportunities to build affordable housing off-site from the main project or to pay in-lieu fees to fund lower-income units in other locations. A key factor



A family gathers outside their inclusionary home in the Old Las Vegas Highway development in Santa Fe, New Mexico. Credit: John Baker Photography.

that often shapes those decisions is whether a jurisdiction wants to encourage on-site performance or leverage other sources of funding to build more affordable units elsewhere. Done well, off-site production can provide flexibility to developers and increase production.⁴

Affordability Preservation: Long-term price restrictions ensure that programs have lasting impact by preventing affordable rates from expiring after a few decades and returning those units to market rate. Very long-term affordability periods are the overwhelming trend, and research suggests they can also offer residents wealth-building opportunities.⁵

Legal Compliance: Jurisdictions adopting inclusionary housing programs should pay close attention to evolving case law, but U.S. courts have generally upheld the basic right of local governments to promote the welfare of their residents by requiring housing that is affordable to lower-income households. There is reason to expect this trend to continue.

RECOVERING INCREASES IN LAND VALUE

Inclusionary housing is a form of land value return (also known as land value capture), a policy that enables communities to recover and reinvest land value increases that result from new infrastructure, zoning, or other government actions. Much of the profit from development is generated by the surrounding community, not the actions of the developer or property owner; inclusionary housing and similar policies ensure that the returns on public investment accrue for public benefit.

Understanding Economic Feasibility

Inclusionary housing can succeed in more places than many people realize, from big central cities to smaller towns, but it may not be suitable in every type of housing market. Because inclusionary housing relies on market-rate development, it requires that a place contain growing neighborhoods where new housing is being built.

The intervention of inclusionary housing into private markets is almost always controversial, however, and it continues to raise concerns that policy makers must address with care to ensure that programs have the intended positive effects.

Most cities commission economic feasibility analyses to ensure that inclusionary housing requirements do not inadvertently restrict development. Research indicates that this risk exists—but that many inclusionary programs are able to successfully mitigate it and to require affordable units without impacting market-rate housing production.

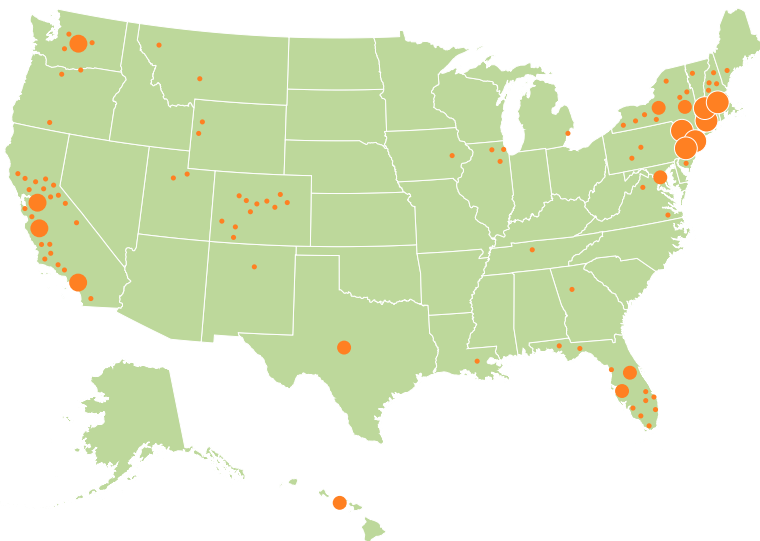
Generally, housing developers cannot directly pass the cost of affordable units on to neighboring tenants, because developers typically already charge as much as the market will support at a given location. Instead, as most economists agree, inclusionary housing

CASE STUDY: MONTGOMERY COUNTY, MARYLAND

Since the early 1970s, Montgomery County has created more than 14,000 homes for lower-income families who successfully integrated into some of the area's most expensive neighborhoods and promoted racial integration throughout the county.⁶ Children living in affordable housing produced by the program attended higher-quality schools and performed better than other children in lower-income families.⁷

requirements should reduce the amount that developers pay for land. That said, if requirements are set too high or increase too fast, they could slow development by reducing the number of landowners willing to sell.

Research also shows clear benefits of integrating lower-income households into higher-income neighborhoods with better schools and overall conditions.⁸ Integration within the same building has yet to demonstrate additional benefits.⁹ Inclusionary housing offers an important tool for achieving neighborhood-level integration, but many programs ultimately succeed through a mix of both on-site and off-site developments.¹⁰



Number of Programs

● 1 to 3 ● 4 to 10 ● 11 to 25 ● 26 to 100

The United States is currently home to nearly 1,200 inclusionary housing programs managed by more than 800 jurisdictions in 27 states. An interactive map is available through the Grounded Solutions Network at InclusionaryHousing.Org, a comprehensive online resource on inclusionary housing policies that also includes resources on program design, communications, and economic feasibility evaluations. Source: Grounded Solutions Network (2019).

Policy Recommendations

PLAN FOR THE LONG TERM

Jurisdictions should ensure effective administration of their inclusionary housing ordinances. To meet their stated goals, communities must be able to fund ongoing program management and recruit staff with specialized skills to engage successfully with developers and ensure that units remain affordable.

MEASURE IMPACT

Communities should closely track program data to make needed changes over time and evaluate outcomes. Ultimately, all inclusionary housing programs—both individually and collectively—would benefit from significantly improving and standardizing data collection and performance metrics. Where possible, state and federal government agencies should support broad tracking infrastructure, data collection, and program evaluation.

PRIORITIZE STAKEHOLDER SUPPORT

To maximize impact and minimize opposition, policy makers should build consensus around investment in affordable housing and mixed-income communities. Engaging community stakeholders, including real estate developers, in the process of designing an inclusionary program is critically important. Incorporating findings from economic feasibility studies and ongoing real-world activities can also further legitimize a program.

ENACT STATE-LEVEL FRAMEWORKS

Individual states can encourage local inclusionary housing by establishing clear statewide planning frameworks. Policies should explicitly allow local governments to implement inclusionary housing, prohibit local exclusionary housing practices, and require communities to proactively plan for and build affordable housing.

OFFER FEDERAL INCENTIVES AND SUPPORT

The U.S. government could support inclusionary housing by allocating federal transportation funding to communities that develop affordable housing in concert with new transit. It could also remove regulatory barriers to mortgage markets for buyers of inclusionary homes and allow cities to use federal funds for stewardship of units with long-term affordability controls.



Frazer Court in Redmond, Washington, offers six affordable units to families making 80 percent of the area's median income. Credit: City of Redmond.

This policy brief is based on the Policy Focus Report by Rick Jacobus, *Inclusionary Housing: Creating and Maintaining Equitable Communities* (Cambridge, MA: Lincoln Institute of Land Policy, 2015).

- ¹ Reid Ewing, Rolf Pendall, and Don Chen, "Measuring Sprawl and Its Transportation Impacts," *Transportation Research Record: Journal of the Transportation Research Board* 1831 no. 1 (January 2003): 175–83.
- ² Grounded Solutions Network, "Inclusionary Housing Database Map," <https://inclusionaryhousing.org/map/>.
- ³ Non-Profit Housing Association of Northern California, California Coalition for Rural Housing, San Diego Housing Federation, and the Sacramento Housing Alliance, "Affordable by Choice: Trends in California Inclusionary Housing Programs" (San Francisco, CA: Non-Profit Housing Association of Northern California, 2007).
- ⁴ Jenny Schuetz, Rachel Meltzer, and Vicki Been, "31 Flavors of Inclusionary Zoning: Comparing Policies from San Francisco, Washington, DC, and Suburban Boston," *Journal of the American Planning Association* 75, no. 4 (October 2009): 441–456.
- ⁵ Ken Temkin, Brett Theodos, and David Price, "Balancing Affordability and Opportunity: An Evaluation of Affordable Homeownership Programs with Long-Term Affordability Controls" (Washington, DC: Urban Institute, October 2010), www.urban.org/url.cfm?ID=412244.
- ⁶ Myron Orfield, "Land Use and Housing Policies to Reduce Concentrated Poverty and Racial Segregation," *Fordham Urban Law Journal* 33, no. 3 (2005): 101–159.
- ⁷ Heather Schwartz, *Housing Policy Is School Policy: Economically Integrative Housing Promotes Academic Success in Montgomery County, Maryland* (New York, NY: Century Foundation, 2010).
- ⁸ Raj Chetty and Nathaniel Hendren, "The Impacts of Neighborhoods on Intergenerational Mobility: Childhood Exposure Effects and County-Level Estimates" (May 2015), https://scholar.harvard.edu/files/hendren/files/nbhds_paper.pdf.
- ⁹ Diane K. Levy, Zach McDade, and Kassie Dumlao, "Effects from Living in Mixed-Income Communities for Low-Income Families: A Review of the Literature" (Washington, DC: Urban Institute, January 2011), www.urban.org/url.cfm?ID=412292.
- ¹⁰ Heather L. Schwartz, Liisa Ecola, Kristin J. Leuschner, and Aaron Kofner, "Is Inclusionary Zoning Inclusionary? A Guide for Practitioners; Technical Report" (Santa Monica, CA: RAND Corporation, 2012), https://www.rand.org/pubs/technical_reports/TR1231.html.