



## **Smart Growth, Smart Choices Series**

# **The Builder's Perspective on Inclusionary Zoning**

**Edward A. Tombari, AICP**  
Land Development Services

November, 2005

## Table of Contents

I.	What is Inclusionary Zoning?	3
II.	History	3
III.	Current Trends	4
IV.	Existing IZ Ordinances	4
	a. San Francisco Bay Area	5
	b. Los Angeles Area	5
	c. Washington, DC Area	5
	d. Boston, MA Area	6
	e. Denver, CO Area	7
V.	Inclusionary Zoning and the Competitive Housing Market	8
	a. Price Controls	8
	b. Supply and Demand	8
	c. Filtering	9
	d. Leakage	9
VI.	Cost Offsets: Do They Really Exist?	10
VII.	The True Socio-Economic Benefits of Inclusionary Zoning	10
VIII.	Considering the Negative Consequences of Inclusionary Zoning	11
IX.	Considering Alternatives to Providing Affordable Housing	13
X.	Conclusions	16
XI.	Bibliography	18

## **What is Inclusionary Zoning?**

Inclusionary zoning is a local government requirement for home builders and developers to construct a certain percentage of units in every new market-rate development that will be at a determined “affordable” level for people identified as having low or moderate incomes. This determination is made by “qualifying” persons to participate in a program by verifying their household income as being, typically, 80% of the area’s median household income.

Community officials typically will enact inclusionary zoning with several “stated” goals in mind, including establishing a larger housing stock, creating more affordable homeownership opportunities and integrating instead of concentrating affordable units throughout a jurisdiction. Another possible, but less direct, reason could be to give the appearance to constituents of “doing something” about affordable housing, particularly in communities that have experienced rapid and dramatic rises in housing values and a correlating rapid decrease in availability of reasonably priced, decent housing.

The typical components of an inclusionary zoning ordinance include; voluntary versus a mandatory implementation; an income qualification level (typically set at 80% or less of area median income); project size threshold, providing for an exemption for smaller developments; Pricing criteria that establish the sales/rental prices of the units; re-sale controls that limit re-sale prices or rents for a period of 5 to as much as 30 years to keep units part of the affordable housing stock; additional incentives that promote ownership over rental.

## **History of Inclusionary Zoning**

The first inclusionary zoning ordinance was passed by Fairfax County, Virginia in 1971, but was ruled invalid due to the fact that Virginia is a “Dillon” rule state, and such policies cannot be legislated at the local level without state legislative authorization.<sup>1</sup> In 1974, nearby Montgomery County, Maryland, passed a similar ordinance, the one difference being that a density bonus was provided to compensate the home builder for loss of income with additional housing units. The program was re-instated in 1990, following a model similar to that of neighboring Montgomery County, MD

Throughout the 1970s and 1980s, California was the primary location where the adoption of inclusionary zoning ordinances took place. The combination of rising home prices and a strong affordable housing and social justice advocacy movement in the state lent itself towards municipalities adopting these types of ordinances. Also, this period coincided with high inflation and interest rates, so there was additional pressure for governments to take action to provide for affordable housing in this region. Despite the national recession, inclusionary zoning did not expand much beyond California, and the Washington, DC area through the 1990s with the exception of perhaps the Boston and Denver areas

## Current Trends

The record low interest rates, starting in 2001, combined with a widening of financing options have led to record homeownership levels, but the squeeze on supply has led to a rapid escalation in housing prices. Many local governments, alarmed by the rapid increase in housing costs in their communities have felt pressure from advocacy groups as well as business groups concerned about economic development recruiting, to “take action” to address the affordable housing issue in their community. Metropolitan areas in such places as Seattle, Minneapolis, Chicago, and Miami began to look into inclusionary zoning examples from California and Washington, DC as a possible solution to their affordable housing crises; as well as in smaller cities such as Madison, WI, Ann Arbor, MI, Burlington, VT, and Santa Fe, NM.

## Existing Inclusionary Zoning Ordinances

The longest track record for these programs exists primarily in the San Francisco, Los Angeles, Washington, D.C., Boston and Denver metropolitan regions. This paper briefly examines the history of programs in these areas.

### San Francisco Area:

Based on the number of jobs created by the expanding Bay Area economy, approximately 24,217 “affordable” housing units per year are needed to house workers who have been added to the economy. In 30 years, the 27 participating municipalities in the Bay Area managed to create 6,840 affordable units through inclusionary zoning requirements, or roughly 28% of the *annual* affordable housing need.<sup>2</sup>

At the same time, due to inclusionary zoning requirements, the San Francisco Bay area lost a total of \$2.2 billion in home value equity (lost home value equity equals the market value price less the below market value price set by government) that could have been taxed by local government for the social good or created additional wealth among the residents of San Francisco Bay. When divided amongst the 6,840 units of housing produced, the “tax” on the area economy to create each affordable unit is \$321,637.42.<sup>3</sup>

### Los Angeles Area:

Based on the number of jobs created by the expanding Los Angeles area economy, approximately 12,460 “affordable” housing units per year are needed to house workers who have been added to the economy. The sum total of “affordable” housing units created in 27 years is 6,379, or roughly 51% of the *annual* affordable housing need.<sup>4</sup>

At the same time, due to inclusionary zoning requirements, Los Angeles and Orange Counties lost a total of \$3.8 billion in home value equity that might have been taxed by local government for the social good or created additional wealth among residents of these two counties. When divided among the 6,379 units of housing produced, the “tax” on the area economy to create each affordable unit is approximately \$596,546.<sup>5</sup>

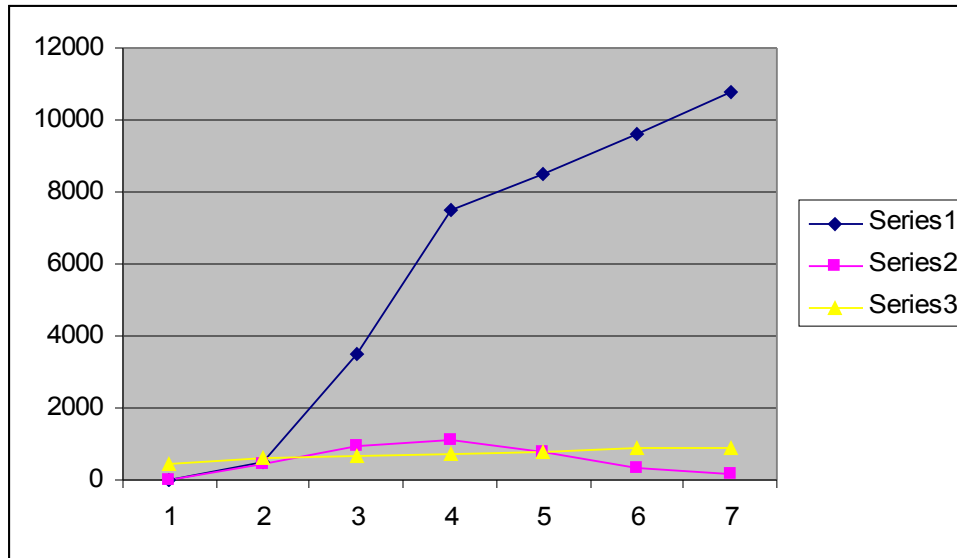
Additionally, similar studies of the effect of inclusionary zoning on the overall supply of housing in the Los Angeles area show a chilling effect on the amount of housing constructed. Studies show that within the 13 municipalities which adopted inclusionary zoning ordinances, 17, 296 fewer homes were constructed in the seven years following enactment of inclusionary zoning than in the seven years prior.<sup>6</sup>

### Washington, DC

The program with the longest running track record in the country is in Montgomery County, MD, near Washington, DC. Approximately 10,781 affordable housing units have been created since the program's inception, through what is described officially as the "Moderately Priced Dwelling Unit" program.<sup>7</sup> The program historically exempted projects of 50 units and has required that 12.5% to 15% of all housing units in non-exempted developments be provided at "below market rate".<sup>8</sup> Additionally, unlike the San Francisco Bay Area or the Los Angeles area, Montgomery County was (relatively) sparsely populated and overwhelmingly "single-family" when the ordinance was passed. This allowed for the County to begin building multi-family "townhouse" communities in a somewhat planned fashion without overwhelming the existing infrastructure of the community. This also allowed for the County to provide density bonuses of up to 22 percent beyond what would have been built if the program had not been enacted. This may have helped to dampen the effect of lost housing value and reduced supply that was witnessed in more densely populated California.

However, the inclusionary zoning experience has not been without its flaws in Montgomery County. As the county has become more urbanized and has reached "build out" there are fewer and fewer large parcels of land on which to develop large residential development. Many area builders are now building residential projects on smaller infill lots and many are under the 50 unit size required for inclusionary zoning standards. The result has been a "bell curve" (seen in Figure 1 as the line labeled "Series 2") of housing production, with a large number of affordable units produced within the 1970s and 1980s, and significant fall off in the 1990s and 2000s. While approximately 800 MPD units a year were being produced in the 1970s and 1980s, today approximately 200 MPD units a year is more typical.<sup>9</sup>

Additionally, the higher density townhouse complexes built during the 1970s and 1980s are beginning to show signs of age. Therefore, these communities have fallen into danger of becoming stigmatized as "warehouses" for the less prosperous.



**Figure 1: Montgomery County, MD MPDU Program**

Series 1 = Population (in 1,000s) from 1 (1970 ) to 7 (2000)

Series 2 = Affordable Unit Produced per Year (in 100s) from 1970 to 2000

Series 3 = Total number of Affordable Units

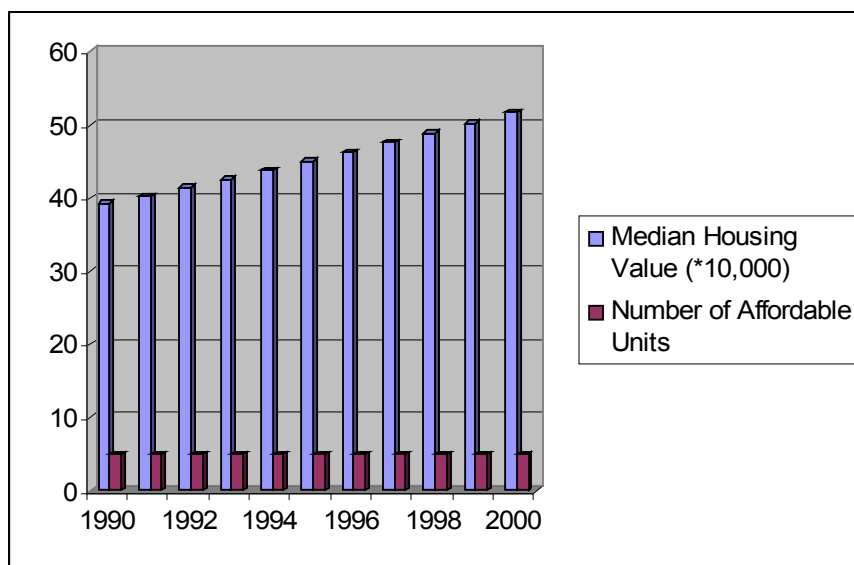
Figure 1 Data Based on US Census Data and data from Montgomery County, MD Department of Housing and Community Affairs

Another restriction on the addition of MPDUs in Montgomery County is the growing demand for multi-story condominium development. This has created a challenge for the county administrators, as it is more expensive to build per unit for multi-story structures (generally 3 floors or more).<sup>10</sup> That makes the County's job compensating the developer that much harder, and any compensation that the County is unable to make would be achieved, most likely, through an increase in the market rate housing price.

### Boston, MA

Both the cities of Cambridge and Brookline, MA, directly adjacent to the city of Boston, have passed inclusionary zoning ordinances in the late 1980s, in reaction to the area's first home value jump that started after the region's early 1980s high tech boom. Housing values in the region leveled off dramatically during the late 1980s and early 1990s recession, which hit the region especially hard. However, a second employment boom in the late 1990s and early 2000s led to another wave of dramatically escalating home values in the region. Within the Town of Brookline for instance, the median home value in 2004 rose to just over \$1,000,000 dollars.<sup>11</sup>

The City of Brookline began its program in 1987 and in the ensuing 18 years, the program has created just 89 affordable units<sup>12</sup> concurrently, the median house value for the City of Brookline rose from \$393,094 in 1990 to \$550,000 in 2000<sup>13</sup>, a 28% increase in price. This increase reflects the rising housing values throughout the Boston area.



**Figure 2: Town of Brookline, MA: Affordable Housing Units Produced (average) vs. Median Housing Value 1990 -2000**

Denver, CO

The passage of inclusionary zoning ordinances in the Denver region is a relatively newer phenomenon compared to California and the northeast. However, a number of cities within the region passed inclusionary zoning ordinances during the late 1980s and 1990s in response to rapid growth and rapidly increasing home prices in the area. The City of Denver itself passed an inclusionary zoning policy in 2002 and has created over 670 affordable units in the past three years.<sup>14</sup> Much of the ability to be able to provide a comparably (to other Colorado cities) large number of “affordable units” in a short period of time has to do with the development boom within the city associated with the airport relocation from Stapleton to the Denver International site. This relocation allowed for the redevelopment of thousands of acres at the old airport site, as well as new development on recently annexed land near the far, outlying new airport location. This is a situation rather unique to Denver. Most inner cities have little land left for development of thousands of new units so it should not be assumed that this relatively large number of “affordable units” could be produced in other large central cities.

Generally speaking, the development of inclusionary housing policies has done little to slow the steep increase in housing costs. Surprisingly, relatively small Boulder, CO is the most expensive Metropolitan Statistical Area in the country not located within the San Francisco Bay or New York Metropolitan areas.<sup>15</sup> Boulder was one of the first communities to adopt an inclusionary zoning policy in the Denver region, in 1983. Other jurisdictions that have adopted inclusionary zoning policies include Longmont and Fort Collins.

## **Inclusionary Zoning and the Competitive Housing Market**

### Inclusionary Zoning as a Price Control

“The Problem was that since French bakers were denied the ability to make cheap bread at a profit, and forced to sell expensive bread at a loss, they did the only rational thing possible: They made very little bread at all. [This precipitated that infamous response by Queen Marie Antoinette to the concern that the people have no bread] That’s how bread riots developed and maybe even the French Revolution itself.” – Jonah Godberg, Economist.<sup>15</sup>

A dramatic example, but the results may be the same, perhaps not revolution, but quite possibly an even greater shortage in housing in a time when a growing population is feeding the demand. Due to the basic economic tenet of supply and demand, the result of this scenario would be even *more* expensive housing.

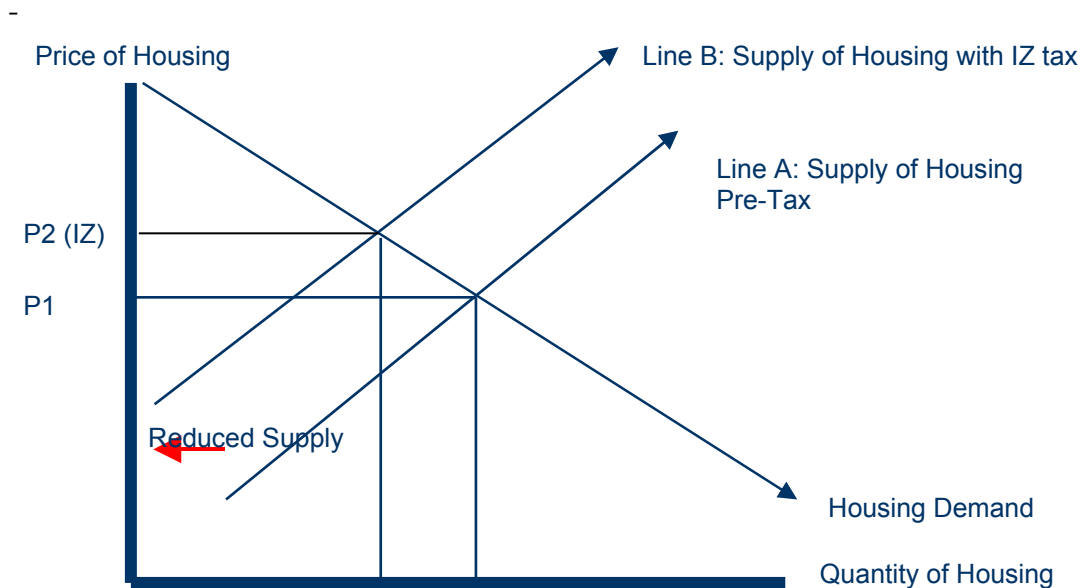
Inclusionary zoning policies are a form of *price control*. Price controls can be defined as “economic policies used to fight inflation. (The name arises because this involves control over incomes.) Many or most macroeconomists oppose the use of these controls since they interfere with the price mechanism, encouraging inefficiency: they lead to shortages and declines in the quality of goods on the market, while requiring large government bureaucracies for their enforcement....They work best for those sectors of the economy dominated by monopolies or oligopolies with a significant sector of workers organized in labor unions.”<sup>16</sup>

As a form of price control, inclusionary zoning policies will affect the housing market in significant ways. The four main areas in which the market is most affected (and will correct itself against an intrusive regulation) are supply, demand, filtering and leakage which will be discussed below.<sup>17</sup>

### Supply and Demand

Figure 3 is a rather simple macroeconomic diagram that demonstrates the market’s response to price controls being placed on a commodity; in this instance the commodity is housing. The market will set the price of housing at a point where supply and demand are met, as demonstrated in Line A. However, when a price control such as inclusionary zoning is placed on a market, two things immediately happen—there is a reduced supply of housing, and the price for producing each unit of housing is increased, as demonstrated in Line B. On a macroeconomic scale, the end result will be the overall increase of housing costs in a community as time and quantity of housing moves forward, after the adoption of inclusionary zoning policies.

**Figure 3: Inclusionary Zoning as a “Tax” on the Housing Market**



Graphic Courtesy of Edward Stringham, Phd. and Benjamin Powell, Phd., of San Jose State University

### Filtering

Filtering and leakage are market phenomena related directly to a region’s housing market, most specifically the political and geographical make-up of a region.

Filtering is the process by which market prices are contorted from jurisdictions implementing inclusionary zoning into areas not implementing inclusionary zoning, similar to a ripple effect. Filtering in the housing market occurs when artificial price controls are placed on the commodity being produced. The theory is that, because inclusionary zoning policies tend to drive up housing costs in jurisdictions which implement inclusionary zoning, those middle income buyers who no longer can buy in to the inclusionary zoning jurisdiction must now compete with other buyers in nearby jurisdictions within the region.<sup>18</sup> More competition causes higher housing prices, *even in jurisdictions which do not implement inclusionary zoning requirements.*

### Leakage

Leakage theory entails any time a control, tax or subsidy is placed on a commodity, and there is a “displacement” of the commodity which would have occurred with no government intervention. In the case of housing, even in high-priced housing markets, affordable units are produced even with no government intervention such as price controls. The leakage phenomenon occurs because of market “inefficiencies” that are generated through the cost (in terms of time and money) of administering a program (such as inclusionary zoning) and also because such programs increase competition in the affordable housing market, hence weakening the profitability of providing such additional units and thereby reducing their supply.<sup>19</sup> These “lost units” through the

leakage phenomenon are never counted by inclusionary zoning advocates when tallying the number of affordable units created by such a program, thus making the program appear more productive than it really tends to be.

### **Incentives and Cost Offsets - Do They Really Exist?**

When considering the constitutionality of any government policy, government cannot “take” a citizen’s property without just compensation. Although the issue of “just compensation” is often contentious (particularly when dealing with eminent domain condemnation of property), at a bare minimum, government must compensate a private citizen at a 1 to 1 ratio of determined value.<sup>20</sup> Therefore, a key to allowing for the continued implementation of the inclusionary zoning programs is to demonstrate that developers are being justly compensated for the requirement to provide below market rate housing prices. The most popular “cost offset” is to allow developers to build at higher densities than an existing zoning district will allow in order to provide additional units. The increased profit on the additional number of units, the theory goes, compensates for any losses incurred by the requirement to provide below market rate housing.

Creating this benefit through density bonuses can be extremely problematic, however. The first major problem with this benefit is Not In My Back Yard citizen sentiment towards higher density housing, which can result in a loss of dwelling units through the political process prior to approval. Local news sections of newspapers around the country are filled with stories of livid citizens against any development nearby that is not one unit higher in density than their own properties.<sup>21</sup> The loss of dwelling units means that the supposed “offsets” are reduced or never achieved and the builder often must transfer the loss to the cost of the market rate houses. A second problem is that construction costs generally tend to increase as density increases. The Montgomery County example cited earlier in this paper is a good example. Therefore, as the “benefit” is increased, it becomes less profitable in general to build. Finally, local planning ordinances and comprehensive plans are filled with market contradictions to providing lower-cost housing. For example, conservation and open space requirements, excessive buffering and setbacks all eliminate land that could be used to construct housing. In this type of regulatory environment, the ability to provide true “cost offsets” to builders is already an uphill battle to begin with.

The Town of Brookline, MA offered developers the option of density bonuses, reduced parking requirements or \$5,000 in cash (which would theoretically of the three have the least value) as a cost offset for their mandatory inclusionary zoning housing units. For all 89 units produced in the history of the program, the builder selected the \$5,000 cash.<sup>22</sup>

### **The Socio-Economic Benefits of Inclusionary Zoning**

In December 2004, a state Home Builders Association ran a series of focus group meetings organized by an independent third party consultant. In the focus group sessions, average residents selected at random, with no prior knowledge about what the focus group discussion was to be, were asked to discuss inclusionary zoning policies in approximately 2 hour sessions. The process was facilitated by questions from a

moderator. Not surprisingly, most of the residents in these sessions typically agreed that the goal of integrating lower income families into higher income areas was an admirable policy and they had no theoretical problem with government implementing such policies.<sup>23</sup> However, there was major concern voiced by residents that families of lower income may not be able to maintain their property at the same standard as their higher income earning neighbors, thus causing long-term problems in communities which have Inclusionary Zoning.<sup>24</sup>

The discrepancy between theory and reality, instinctively raised by average residents, highlights some underlying problems with the concept that programs such as inclusionary zoning are a “quick-fix” to poverty and socio-economic segregation. Issues such as long term maintenance of property, and resale caps and equity caps, which do not allow for the full benefit of homeownership, are seldom discussed when talking about the socio-economic benefits of Inclusionary Zoning. Many inclusionary zoning programs require a 50% to 100% equity gain on re-sale of property be returned to the program.<sup>25</sup> In many respects, such requirements almost reduce homeowners to renter status in terms of benefits.

Another concern raised by inclusionary zoning policies regarding socio-economic benefits is who these programs truly serve. Most programs begin to qualify residents at 80% of median family income. However, communities that typically implement inclusionary zoning policies have extraordinarily high income levels. Consider Palo Alto, CA, which has a median family income of \$117, 574.<sup>26</sup> At 80% of that level, families earning \$94,059 a year can qualify for the program, hardly considered “low income” by any standard. The same rings true in other affluent communities with inclusionary zoning policies, including Boulder, CO and Montgomery County, MD, where 80% of median family income are \$56,205 and \$57,241 respectively.<sup>27</sup>

### **Considering the Negative Consequences of Inclusionary Zoning**

Considering all the negative consequences and inclusionary zoning policies, governments should be extremely wary of imposing such a control on the housing market within their jurisdiction. The intent of this paper is to indicate that when all the facts and trends are examined, inclusionary zoning policies do more harm than good to the affordable housing market and should therefore be avoided.

#### *Singling out a market with price controls*

The definition for price controls presented in the first page of this paper indicates that inclusionary zoning would have mostly a detrimental effect on the large and diverse housing industry. From an economic standpoint, an extremely diversified industry (in terms of production and number of builder companies) such as home construction is one of the most inappropriate industries in which to impose price controls.

### *The Number of “Affordable Units” Produced Woefully Inadequate*

As demonstrated in every metropolitan area that has implemented inclusionary zoning policies, including Boston, San Francisco, Los Angeles and Washington, DC, the number of “affordable” housing units produced by inclusionary zoning in multiple decades is only a fraction of affordable units needed each year. However, the negative consequences of such policies on housing markets appear to be amplified negatively given the small number of units produced. Local official must consider this basic “cost-benefit” analysis before implementing these kinds of requirements.

### *Loss of Taxable Land Value*

As was documented in both the Los Angeles and San Francisco area, the amount of lost taxable land value due to inclusionary zoning requirements for below market rate housing can quickly add up to *billions* of dollars in large metropolitan areas. This, in turn, can equal millions of lost tax dollars that could be spent on other affordable housing programs such as down-payment assistance and low interest loan programs.

### *Reducing Supply Raises Costs*

This is indisputable “Economics 101”. Any regulatory policy that decreases the ability to construct market rate housing will have the immediate effect of raising the cost of housing in that community. Therefore, community leaders must always be skeptical of introducing any additional regulations as an approach to produce more affordable housing in their community.

### *Regulatory Bureaucracy Raises Costs*

As much as regulatory policies reduce supply and raise costs, so does the administration of a newly initiated program. The costs to a municipality for additional staff, equipment and facilities to administer such programs must come in the form of additional taxation. Such taxation is typically borne by homeowners through the property tax, thus raising the overall cost of housing. Additional time during the regulatory review process also equates to additional cost to home builders which must be passed on to the home buyer.

### *Leakage and Filtering Raises Costs*

Inclusionary zoning advocates, in general, fail to address the higher housing prices created by increased competition (leakage) and increased scarcity (filtering) that accompany such policies within a metropolitan area. This not only leads to increased housing costs but also to “lost” affordable units. These lost affordable units must be compared against any gain in affordable housing units by such programs to come to a “true net” number of affordable housing units.

### *Insufficient Cost Offsets Raises Housing Costs*

There are far too many variables out of the control of governments that enact inclusionary zoning ordinances, which can undermine the ability of government to truly offset the cost to a builder for providing an affordable housing unit. That cost must then be passed on to the homebuyer in the form of higher market rate housing costs.

### *Dubious Results of Socio-Economic Integration and Success*

The complexity of social and economic integration is, unfortunately, underestimated by those advocates who perceive inclusionary zoning policies as a “panacea” for this societal problem. Generally, those who do perceive these programs in that light highly underestimate issues such as long term maintenance costs, equity return caps, homeowner association and condominium fees as creating further burden on residents of inclusionary zoning housing units.

### *Limits on True Benefits of Homeownership*

Inclusionary zoning advocates discuss these kinds of programs as disposing the benefits of homeownership to those who may otherwise not be able to acquire such. However, most of the programs have requirements that render participants little more benefits than if they were renting, with considerably more financial obligations. Typical inclusionary zoning programs impose resale price controls on inclusionary zoning units for 15 and even up to 30 years, required equity “pay-back” into program, ranging from 50% to 100%, coupled with no financial assistance for major maintenance such as re-roofing or re-siding a home, landscaping and maintenance, homeowner association fees and condominium fees. This combination virtually eliminates the ability of an inclusionary zoning unit owner to build equity and could actually be crippling to participants, who may be better off in a rental situation where many of these needs are taken care of as part of their rental payment.

### **Considering Alternatives to Providing Affordable Housing**

A helpful alternative to mandatory inclusionary zoning is to provide for more constructive solutions to provide for a greater number of affordable units, particularly in areas where housing affordability has become a serious concern.

### *Stop targeting the housing market with price controls*

The history of price controls is one of unmitigated failure. Governments have attempted to impose price controls on specific goods for 40 centuries, starting with Ancient Rome’s “Law of the Maximus”; the events leading to the French Revolution; through to Nationalist China and South Vietnam’s draconian price control enforcement which led to popular discontent and ultimate collapse of those governments; the failed attempts at price controls in the United States in the 1970s, which only led to food and oil shortages, even higher inflation and a national recession; and most recently the collapse of the Soviet Union and communist Eastern Europe in the early 1990s.<sup>28</sup>

A fundamental question also needs to be asked to inclusionary zoning advocates and the municipal governments that enforce them. Why do they perceive housing as a “basic need” market commodity that is somehow different than food, clothing and automobiles (mobility)? Most local governments would agree it would be ridiculous to require Wal-Mart to provide a set aside for clothing at below market rate as a condition for a building permit, or for Ford to set aside below market rate Mustangs in order to build an auto dealership. Shouldn’t the same hold true for the housing market? Builders do have impacts on schools, roads and other public infrastructure, and typically contribute financially to their expansion. However, how does the construction of housing create a need for additional affordable housing? If anything, new housing construction lessens demand for affordable housing by increasing supply. Price controls are a failed economic band-aid that are not sustainable in the long run.<sup>29</sup> Housing advocates and governments need to develop sustainable comprehensive strategies in order to develop an adequate stock of affordable housing.

*Jurisdictions need to honestly balance housing priorities with other goals*

Local jurisdictions bemoan the rise in the cost of housing in their jurisdictions and look to enact new policies such as inclusionary zoning to address the problem when they should be focusing on broader housing strategies. Some local jurisdictions already have housing policies in place designed to address the issue of providing diverse and equitable housing choices. Several states, including Florida, Georgia, Rhode Island, Washington, and Oregon require all local jurisdictions to develop a “housing element” as part of a required comprehensive plan.<sup>30</sup> Unfortunately, many jurisdictions’ day-to-day planning activities tend to focus on politically favored decision-making such as transportation, land use, and environmental goals, while housing often lags behind. Often, policies such as environmental conservation are promoted at the expense of housing, as reducing available land for development increases the cost of housing.

It is not impossible to conceive that communities could do more to promote affordable housing just by implementing the policies they have on the books, rather than introducing additional regulation into the marketplace.

*Increase the supply of housing in markets with high demand*

Economics 101 dictates that if demand increases and supply cannot match the demand, that product will increase in price. This may be one of the prime reasons why housing values escalate dramatically in high growth areas. The difficulty lies in the fact that in high growth areas, it is difficult for the voting public to perceive there *is not enough growth* to avoid an affordable housing problem. The only way to resolve the disconnect between economic reality and political perception is strong political leadership. Locally elected officials must be vigilant in their awareness that many of their decisions routinely have a direct and indirect effect on the cost of housing, and they should not give in to misperceptions by those blindly promoting the mantra “Not In My Backyard.”

### *Regulatory barriers to constructing housing*

Related to the NIMBY effect on local decision-making, local officials serious about addressing affordable housing must make real and significant changes to their land development approval process. Residential development reviews can often take several years from submittal to approval. Often, long delays occur because of continuations of public hearings and complex and overlapping requirements to address “citizen concern” This process alone can often drag on for many months or even years. Many state’s statutes require only one public hearing prior to zoning changes. Cities can be serious about addressing regulatory reform by strictly reducing the number of public hearings that can occur for such approvals, among other time saving approaches that can reduce the amount of time which developers cannot make use of their land.

There are a host of regulatory reforms that communities can take to both increase the number of houses constructed as well as reduce the cost of constructing housing developments. The NAHB Smart Codes check list includes rather simple steps which jurisdictions can take to reform their regulatory process for land development, including allowing for innovation and flexibility in site planning and design, reducing infrastructure requirements for such things as roads sidewalks and drainage (so called gold plated infrastructure syndrome), allowing for a mix of housing types without requiring variances, implementing a “buildable lot inventory” so government has a better understanding of how to provide for a sufficient amount of land for housing development, as well as a myriad of administrative reforms that can reduce costly delays in the development review process.

### *Public-Private Partnerships*

There is a nearly endless combination of public and private partnerships available for the construction of affordable housing. From federal dollars within the HUD, to Fannie Mae and Freddie Mac programs, to money from the operating budgets of local jurisdictions, to local foundations, there are billions of dollars available for the construction of affordable housing. Public funding is crucial to help leverage dollars from the private financing market. This financing can occur in the form of grants, tax-credits, low interest loans and vouchers. Locally elected officials must be serious about the hard work involved in promoting affordable housing. Every local official has the ability to nurture these partnerships, it just takes leadership and serious commitment.

*Implement a broadly funded housing trust-fund at the local and state level to assist qualified homebuyers with down-payment assistance and other housing costs.*

Some states have established “Housing Trust Funds”, which can be used to help supplement federal and local dollars and help leverage additional private investment for the construction of affordable housing. Often these housing trust funds are funded by transactional taxes, such as deed transfer tax, bed tax on hotels, and document stamp taxes. Many states, including California, Minnesota and Florida have initiated such

funds. However, continually maintaining the funds at a level to sufficiently address the needs of workforce and affordable housing takes political commitment over time.

*Communities must demonstrate a true political leadership, innovation and commitment to a broad based program of housing opportunities.*

An excellent example of this political leadership and commitment can be found through the Baltimore City, Maryland's "Live Baltimore Home Center" ([www.livebaltimore.com](http://www.livebaltimore.com)) housing development program.<sup>31</sup> While Baltimore's specific issues focus mainly on redevelopment for new housing, it is an excellent example of public expenditures on promotion and organization to boost housing opportunities for all segments of society. It is also an example of how a community has embraced innovation and information technology, such as promoting the program through an attractive and user-friendly webpage, instead of embracing economic policies which have failed for centuries. This is a 21<sup>st</sup> Century example that could be adopted by any community no matter what their specific housing goals and needs are. Baltimore City does not have an inclusionary zoning requirement, yet has begun construction on or completed 12,590 units of attractive, affordable and moderately priced housing units *in just three years*, a figure more than nearby Montgomery County managed to create in 35 years through its MPDU program.<sup>32</sup> Approximately 70% of the units in Baltimore are being constructed by market-rate, private developers.<sup>33</sup> Through innovation and clear political leadership, the city is rapidly becoming an oasis of attractive, affordable and moderately priced housing in a region notorious for its astronomical housing costs. The city government has managed to accomplish this not by requiring additional regulatory and financial burdens, but providing financial and regulatory incentives to home builders, and have been remarkably successful.<sup>34</sup>

## **Conclusion**

The primary purpose of this paper is to highlight a "cost-benefit" analysis of the inclusionary zoning policy. It is hoped that the evidence from this paper indicates that the benefits of these programs are minimal, considering the scope of the problem of housing affordability. The costs, on the other hand raise grave concerns about potential negative consequences on housing supply and cost, which clearly outweigh any minimal benefit achieved through these programs.

Creating decent, affordable housing and homeownership for the entire socio-economic spectrum of society is a noble one, one that government shares with the home building industry. However, additional regulations, difficult to mitigate cost burdens and proven economic policy failures are not the answer. Clear political leadership and a true commitment to affordable housing are needed, as well as a comprehensive approach to the problem of unaffordable housing, not politically expedient and unproductive "Band-Aids." This includes developing broad-based funding mechanisms in which all of society contributes to the provision of affordable housing units, and embracing innovation which requires "thinking outside the box". It also includes a realistic understanding that a growing country will need to develop land and many more houses for future generations.

The time is now to beginning planning the homes for those future generations and to ensure they are affordable to all who seek them.

## **Bibliography**

1. “Expanding Affordable Housing Through Inclusionary Zoning: lessons Learned from the Washington Metropolitan Area” Karen D. Brown, Brookings Institute, October 2001
2. “Do Affordable Housing Mandates Work?” Evidence from the San Francisco Bay Area, Stringam and Powell Phd., Reason Institute, 2004
3. “Do Affordable Housing Mandates Work?” Evidence from the San Francisco Bay Area, Stringam and Powell Phd., Reason Institute, 2004
4. “Do Affordable Housing Mandates Work?” Evidence from Los Angeles County and Orange County, Stringam and Powell Phd., Reason Institute, June 2004
5. “Do Affordable Housing Mandates Work?” Evidence from Los Angeles County and Orange County, Stringam and Powell Phd., Reason Institute, June 2004
6. “Do Affordable Housing Mandates Work?” Evidence from the Los Angeles County and Orange County, Stringam and Powell Phd., Reason Institute, June 2004
7. “Expanding Affordable Housing Through Inclusionary Zoning: lessons Learned from the Washington Metropolitan Area” Karen D. Brown, Brookings Institute, October 2001
8. “Expanding Affordable Housing Through Inclusionary Zoning: lessons Learned from the Washington Metropolitan Area” Karen D. Brown, Brookings Institute, October 2001
9. Montgomery County Department of Housing and Community Affairs, October 26, 2005
10. Attributed to Director of Housing and Community Affairs, Montgomery County, MD
11. Town of Brookline, MA, Division of Housing, October 5, 2005
12. Town of Brookline, MA, Division of Housing, October 5, 2005
13. United States 2000 Census Data
14. City of Denver, Housing and Neighborhood Development Services, October 5, 2005
15. United States 2000 Census Data
16. Making Economic Sense, Murray H. Rothbard
17. Wikipedia On-Line Dictionary, Wikipedia Free Software Foundation., 2002
18. Inclusionary Zoning: Myths and Realities, Kerry D. Vandell, Center of Land Economics Research, University of Wisconsin-Madison, November 2003
19. Inclusionary Zoning: Myths and Realities, Kerry D. Vandell, Center of Land Economics Research, University of Wisconsin-Madison, November 2003
20. Fifth Amendment of the United States Constitution, Ratified December 15, 1791

21. "Lake Worth OKs Annex, Neighbors Riled", Tanya Ragg, Palm Beach Post, October 20, 2005
22. Town of Brookline, MA, Division of Housing, October 5, 2005
23. Fallon Research and Communication, Contra Costa County and Sacramento, CA Focus Groups, December 2004
24. Fallon Research and Communication, Contra Costa County and Sacramento, CA Focus Groups, December 2004
25. Montgomery County Department of Housing and Community Affairs, October 26, 2005
26. United States 2000 Census Data
27. United States 2000 Census Data
28. Making Economic Sense, Murray H. Rothbard, Auburn, AL: Mises Institute, 1995
29. Making Economic Sense, Murray H. Rothbard, Auburn, AL: Mises Institute, 1995
30. Growing Smart Legislative Guidebook, American Planning Association, Chapter 8, 2002 Edition
31. LiveBaltimore.com, City of Baltimore, MD "Live Baltimore Home Center", 2005
32. Baltimore City Department of Housing, Housing Development Activities table, 2001-2004
33. Baltimore City Department of Housing, Housing Development Activities table, 2001-2004
34. "Development Guidebook: Requirements for Building in Baltimore City", Baltimore City Department of Housing, July 18, 2005