

Boston Linkage Program
Chicago Regional Jobs/Housing Fund Concept
City and County of Sacramento's Linkage Programs

The campaign for a linkage fee in Boston was launched in 1983 with a non-binding ballot resolution promoted by Massachusetts Fair Share, a statewide grassroots organization, and several Boston-based tenants groups. A "neighborhood/community vs. downtown big business interests" tension had been developing as community leaders increasingly felt that Mayor Kevin White had turned his back on Boston's neighborhoods. White, a popular four-term mayor, was stepping down from his position, and mayoral candidates were jockeying for position in a crowded field.

Community based organizations used the referendum and the mayoral race to raise awareness about the growing inequity between the city's downtown area and its neighborhoods. This aggressive campaign also produced significant momentum for a linkage fee program. Over 70 percent of voters supported the concept. The two mayoral candidates who had championed neighborhood issues emerged as the top vote-getters in the September primary. The business-backed candidate, favored to win at least a primary victory, was left in third place.

Mayor White Makes a Move

With the political handwriting on the wall, White moved to establish a linkage fee before his departure. He created a commission that included representatives of business, developers, and community based organizations. The commission recommended a \$5.00 per square foot linkage fee for all new commercial development. In December 1983, White successfully moved a linkage fee ordinance through Boston City Council.

Legal Challenge

However, as Raymond Flynn took office in 1984, the status of the linkage fee was unclear. Several developers threatened to sue the city, arguing that the fee constituted a new tax, which Massachusetts municipalities are not allowed to create. The Flynn administration decided to collect the linkage fee but hold it in escrow until the legal question could be addressed. The City administration, along with community based organizations, began working for passage of state legislation that would enable the City to implement the linkage fee.

In 1986, the Massachusetts legislature passed the legislation and the Boston City Council passed a revised ordinance. The new ordinance added a \$1.00 per square foot fee for job training and shortened the pay-in period for developments in the downtown area from 12 to seven years. (Neighborhood developments remained at 12.) The ordinance applies to new commercial developments over 100,000 square feet that require zoning relief. (Almost all of them do.) The funds go to the Neighborhood Housing Trust and the Neighborhood Jobs Trust.

Moving Forward

In September 2001, Boston Mayor Thomas Menino signaled his interest in increasing the linkage fee and convened a commission to review the linkage program. The proposal to raise the fee to \$7.18 per square foot for affordable housing and \$1.44 for jobs passed City Council and after an extended political tussle provoked by concerns about the allocation of the linkage fund revenues, the state legislature approved the linkage fee increase in late 2001 and shortened the payment schedule for neighborhood developments to seven years.

The Regional Jobs/Housing Fund is a regional alternative to traditional linkage programs, currently under development in the Chicago area. The concept is similar to traditional linkage programs: it links economic growth to a responsibility for the creation of affordable housing. The critical difference is that the Regional Jobs/Housing Fund would not collect fees from the developers, but from the municipalities that permit and benefit from the new development. This avoids legal challenges in states that require a direct link between fees to private landowners and impact.

Because it can be regional in scope, the Regional Jobs/Housing Fund would be able to address the jobs/housing mismatch in economically segregated regions. In fact, the approach will benefit even those municipalities that don't pay into it directly, because it will reduce the concentration of lower income households in areas of the region that have not enjoyed the fruits of rapidly expanding employment.

Gathering the Funds

State legislation would establish a Regional Jobs/Housing Commission with powers to:

- determine "unbalanced" municipalities within the region, based on the ratio of jobs to affordable housing units;
- divert a portion of the increasing tax base from those unbalanced municipalities to the Regional Jobs/Housing Fund;
- oversee the use of these funds for affordable housing (and possibly economic development); and
- hear builder's appeals and override local regulatory actions if they unnecessarily limit the development of affordable housing.

"Unbalanced" municipalities would be defined as those municipalities with a ratio of jobs to affordable housing greater than the regional average. Since there are a number of towns in the Chicago region that have a significant number of both affordable housing units and jobs, municipalities with 20 percent or more of their housing stock defined as affordable would be exempted, even if their jobs/affordable housing ratio is greater than the regional average. Once a municipality is determined "unbalanced," it would be taxed on a portion of the growth in its commercial and industrial tax base.

Using the Funds

There are two options on the table for how the Fund would disburse the money. One option is for it to support only affordable housing programs—including acquiring land, subsidizing private developments that provide affordable housing, financing bonds, and supporting local government housing initiatives—within a reasonable commuting distance of the job center

in question. This option would always retain local revenues in the area from which they were derived.

In another variation the Fund would support either housing as in the first option *or* economic development projects in communities with jobs/housing ratios that are unbalanced in the opposite direction: an abundance of affordable housing but few jobs.

[Business and Professional People for the Public Interest](#) is working with Leadership Council for Metropolitan Open Communities and other organizations in the Chicago region to launch a public debate on the Regional Jobs/Housing Fund and its potential for creating affordable housing in exclusionary suburban communities.

In the 1970s and '80s, the Sacramento region experienced a tremendous increase in population, driven by the rapid growth of high-tech industries, and this resulted in an acute shortage of affordable housing. In 1988, to address this problem, the Sacramento Housing and Redevelopment Authority (a joint powers authority governed by the county and city of Sacramento) spurred the formation of the Sacramento City/County Housing Finance Task Force, which included realtors, builders, housing advocates, religious leaders, and representatives from the Chamber of Commerce and League of Women Voters.

The real estate consulting firm Keyser Marston Associates gave the Task Force a study from the previous year, which quantified the relationship between types of commercial development, low-wage jobs, low-income housing needs, and the subsidy cost of providing new affordable housing. Informed by this study, the Task Force concluded that non-residential development was a "major factor in attracting new employees to the region" and "creates a need for additional housing in the city." It also recognized that addressing the affordable housing crisis required action by both the city and the county. Thus the Task Force recommended creating a city and county housing trust fund to be funded by a linkage fee on new commercial development.

Winning the Ordinance

The effort to win adoption of the Housing Trust Fund Ordinance brought together the Rural California Housing Corporation, Legal Services of Northern California, diverse homeless and housing advocates, and the Sacramento Housing and Redevelopment Agency. In fact, according to several housing advocates, the Redevelopment Authority was both catalyst and central partner in promoting the Housing Trust Fund Ordinance. (The organizing for the trust fund/linkage fee also gave birth to the coalition that later became the Sacramento Housing Alliance, an independent nonprofit advocacy group that advocates for affordable housing and the rights of the homeless.)

To reduce opposition and potential impact on commercial development, the proposed fees were set well below what advocates believed was justified by the consultants' analysis. According to one observer, however, support for the linkage fee only really jelled when the realtors decided that a linkage fee was preferable to the real estate transfer fee also being considered by the Task Force.

The Housing Trust Fund Ordinance was passed by the Sacramento City Council in Spring 1989, but soon after was challenged by the Commercial Builders of Northern California. The builders claimed that their constitutional rights were being violated and that a connection

(or “nexus”) did not exist between the creation of new commercial development and the need for affordable housing.

Federal Judge Edward J. Garcia rejected their argument and his ruling was upheld by the U.S. 9 th Circuit Court of Appeals. Writing the majority opinion, Appeals Court Judge Mary Schroeder said that the ordinance “was enacted after a careful study revealed the amount of low-income housing that would be necessary as a direct result of the influx of workers that would be associated with the new non-residential development.” Clearly, the Keyser Martson Associates study was critical to the legal defense of the ordinance.

The County of Sacramento established a linkage fee program in 1990 that is similar to the city’s.

How it Works

According to the city, the Housing Trust Fund Ordinance serves two purposes: 1) to assure that non-residential development helps address the low-income housing needs associated with job growth and 2) to stimulate housing developments within designated infill areas, reducing commute distances and improving air quality. The Ordinance establishes a housing linkage fee per square foot for non-residential construction and (unlike many linkage programs) also applies to additions and interior remodels that result in a shift from one type of commercial development to another. Current per square foot fees are: Warehouse - \$.27; Warehouse/Office (warehouse buildings with less than 25 percent space used for office) - \$.36; Manufacturing - \$.62; Commercial - \$.79; Research & Development - \$.84; Hotel - \$.94; and Office - \$.99.

A separate fund and rate schedule, with fees ranging from \$.44 to \$1.08 per square foot, were established for the North Natomas section of the city because it was undeveloped at the time. The two funds have since been merged and North Natomas will be shifting to the fee schedule of the rest of the city.

Sacramento’s linkage programs also provide an alternative to full fee payment. Termed the “Build Option,” it allows a commercial developer to construct housing within designated infill areas and then pay only a portion of the full fee amount.

Results

The linkage fee has some weaknesses too. Revenue fluctuates substantially with the fluctuations of the commercial development market. And the Trust Fund can only fund new construction, not rehabilitation of existing units.

Nonetheless, the linkage fee programs are doing what they set out to do. These local, dedicated sources have directly and indirectly (through leveraging) generated significant resources for the development of affordable housing in the Sacramento region.

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