



POLICY BRIEF TOOL

Inclusionary Housing

What is Inclusionary Housing?

Inclusionary housing is a program that requires or encourages market-rate housing developments to include a percentage (usually 10-20 percent) of homes affordable to lower and moderate income households. Inclusionary housing is essential to ensuring that the price of housing available within a community or jurisdiction matches the housing needs of local residents. While inclusionary housing is only one part of a comprehensive affordable housing strategy, it has the potential to create 15,000 units annually in California—nearly doubling the current rate of affordable housing production.

As an affordable housing policy, inclusionary housing offers several unique strengths. First, by requiring the affordable housing to be developed as part of larger market-rate developments, it expands the supply of affordable housing and creates economically diverse communities. Second, inclusionary housing offers a way for communities to create affordable housing at little or no direct cost to local governments. Third, it addresses the challenge of creating affordable housing in communities in which very little land is deemed suitable for new housing.

Over 108 California cities and counties have adopted inclusionary programs that have resulted in the production of more than 34,000 affordable units since 1974. This approach has been effective in such diverse jurisdictions as Carlsbad, Davis, East Palo Alto, Emeryville, Livermore, Monterey County, Napa, San Diego, San Francisco, San Rafael, and Sunnyvale.

In addition to local programs, California Community Redevelopment Law mandates inclusionary housing within redevelopment areas. In all redevelopment areas created after January 1, 1976, 30 percent of the units developed by the redevelopment agency and 15 percent of the units developed by the private sector have to be affordable. In FY 2000/2001 alone 5,466 new affordable units were developed as part of redevelopment projects.

Common Elements

Inclusionary polices take the form of either a local ordinance, a General Plan policy, or a permit approvals process that requires or rewards affordable projects. While the terms “inclusionary housing” and “inclusionary zoning” are often used interchangeably, in fact, not all inclusionary housing practices are, in practice, zoning requirements or overlays. In designing effective inclusionary programs, the most significant policy considerations are: the inclusive percentage (how much is required); income levels targeted; alternatives to construction on-site; developer incentives; and length of affordability.

Inclusionary Percentage: About half of all programs require at least 15 percent, and a quarter of all programs require 20 percent or more. The inclusionary percentage is applied to projects over a certain size, commonly ranging from three to ten units. Smaller projects are often allowed to meet the inclusionary goals differently than larger projects, typically through the payment of in-lieu fees.

Income Targeting: Most programs require that inclusionary homes be targeted to one or more pre-determined income groups: rental units are targeted most frequently to very-low or low-income households (earning 51 to 80 percent of median income), while for-sale units are most frequently targeted to low- or moderate-income households (earning 51 to 110 percent of median income).

Alternatives to Construction On-site: Some communities allow developers to satisfy the inclusionary obligation by dedicating land or paying an “in-lieu” fee. Land dedication options entail the developer donating a sufficient amount of land to the local government to facilitate the production of an equal or greater number of affordable units as the requirement. In-lieu fees allow developers to pay a fee related to the cost of developing the inclusionary units in lieu of developing the units. This fee needs to be set as high as the cost of actually developing the units.

Developer Incentives: Inclusionary housing works best when combined with incentives such as fee waivers, reduced parking requirements, and/or expedited permit review to mitigate the inclusionary requirement. Density bonuses are by far the most popular incentive offered to developers.

Length of Affordability: Nearly all programs require the inclusionary units to remain affordable for particular number of years (most commonly 30 or 55) through the recording of deed restrictions. Some ordinances also stipulate the process by which affordable homes can be resold to ensure they remain affordable for future generations of owners. It is very important for the local jurisdiction to establish effective methods for tracking the units once they are developed.

Frequently Asked Questions & Responses

- **Who pays for inclusionary housing?** Most economists agree that the cost of inclusionary housing is ultimately reflected in lower land costs or reduced profits. While there are concerns about hurting production, an experienced developer will take into account the regulatory context when determining how much to pay for the land, and will not pay more for the land than will allow for adequate margins. Furthermore, density bonuses and other incentives enable the developer to make a profit on additional units that they otherwise could not build on that site.
- **Does a strong inclusionary policy discourage overall housing production?** NPH’s survey revealed that jurisdictions producing the most inclusionary units are those that have experienced rapid expansion. These jurisdictions have managed to harness their exceptionally rapid population growth to stimulate affordable housing production. Many jurisdiction with long-standing inclusionary housing policies report that affordability requirements *do not* hinder overall housing production.
- **Is inclusionary housing legal?** In 2001, the California Appeals Court upheld the City of Napa’s inclusionary housing law (*Home Builders Association v. City of Napa*). Interestingly, this is the only known legal ruling on inclusionary housing. While the Napa case does not guarantee the legality of all inclusionary programs, it does indicate that inclusionary housing is a legitimate public purpose for a local government concerned with addressing the need for affordable housing. The ruling also reinforces the importance of adopting a formal ordinance instead of treating each development on a case-by-case basis.