

# Separating Fact from Fiction to Design Effective Inclusionary Housing Programs

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Inclusionary housing programs generally refer to city and county planning ordinances that require or incentivize developers to build below-market-rate homes (affordable homes) as part of the process of developing market-rate housing developments. More than 500 local jurisdictions in the United States have implemented inclusionary housing policies,<sup>1</sup> and inclusionary requirements have been adopted in a wide variety of places—big cities, suburban communities and small towns.

Despite the proliferation of inclusionary housing programs, the approach continues to draw criticism. There have been legal challenges around inclusionary housing requirements in California, Illinois, Idaho, Colorado and Wisconsin, among others.<sup>2</sup> In addition to legal questions, critics have claimed inclusionary housing policies are not effective at producing affordable housing and have negative impacts on local housing markets.

While there have been numerous studies on inclusionary housing, they unfortunately do not provide conclusive evidence about the overall effectiveness of inclusionary housing programs. These studies vary substantially in terms of their research approaches and quality. In

addition, it is difficult to generalize the findings from the existing research because researchers have examined policies in only a handful of places and at particular points in time when economic and housing market conditions might have been quite different. Given these limitations, however, **the most highly regarded empirical evidence suggests that inclusionary housing programs can produce affordable housing and do not lead to significant declines in overall housing production or to increases in market-rate prices.** However, the effectiveness of an inclusionary housing program depends critically on local economic and housing market characteristics, as well as specific elements of the program's design and implementation.



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# Evaluating Inclusionary Housing Programs

Inclusionary housing policies (often referred to as inclusionary zoning policies) link market-rate development to the production of housing affordable to lower-income households. These policies either require that a certain percentage of new units be set aside as affordable or offer development incentives that are only available when affordable units are included as part of the project. The primary goals of inclusionary housing programs are to increase the overall supply of affordable housing and to promote economic and social integration.<sup>3</sup> Inclusionary housing policies are becoming an increasingly common local tool for expanding housing options and can now be found in 27 states and Washington, DC.<sup>4</sup> Long-standing programs in Montgomery County, Maryland, and Fairfax County, Virginia, have produced thousands of affordable housing units and continue to evolve to respond to changing local economic conditions.<sup>5</sup> Programs in California weathered legal challenges as well as bumpy economic conditions and continue to be an important tool for affordable housing production.<sup>6</sup> And in the past few years, cities and towns across the country have adopted new inclusionary housing policies<sup>7</sup> or are working to expand or modify existing programs.<sup>8</sup>

Criticisms of inclusionary housing programs generally center around two arguments: 1) inclusionary housing programs do not produce much or any affordable housing, and 2) inclusionary housing programs have a negative impact on the overall housing market by depressing supply and pushing up market prices. There have been numerous research studies analyzing inclusionary housing programs, and the results from some of this research are often used to bolster the arguments of critics. Some studies have reviewed the economic theory underpinning the criticisms of inclusionary housing requirements. Others are descriptive studies based on program data or reports that are derived from interviews with local policymakers and developers. The

best evaluations use a research design that 1) compares outcomes in localities with inclusionary housing programs to similar localities without inclusionary requirements, and 2) accounts for other factors that could influence housing market outcomes. These types of studies can be difficult to do, but they provide the strongest empirical evidence of the impacts and effectiveness of inclusionary housing programs.

Even with good empirical studies, it can be difficult to make generalizations about inclusionary housing programs because they vary so much from place to place. The specific characteristics of the policies depend on local economic and housing market conditions, as well as on state and local regulatory and political frameworks. Some inclusionary housing requirements are mandatory, while others are voluntary. Inclusionary housing policies can apply jurisdiction-wide or only in a particular area. In some cases, there are exceptions to the affordable housing requirements—for example, small projects with the number of units below a certain threshold may be exempted from the inclusionary mandate. Some localities offer a buyout option, allowing developers to pay an in-lieu fee to an affordable housing fund instead of providing affordable units as part of the new project. And jurisdictions often offer cost offsets or increased density to incentivize developers to include affordable housing. The diversity of inclusionary housing programs has made it difficult to synthesize what we know about the effectiveness and impacts of these policies.

This research brief responds to the main criticisms of inclusionary housing programs, reviewing what is known from the research on the effectiveness and impacts of inclusionary housing programs. This report also highlights what the research shows about the relationship between impacts and program design and local market conditions.

Inclusionary housing policies are becoming an increasingly common local tool for expanding housing options and can now be found in 27 states and Washington, DC.





## Do Inclusionary Housing Programs Produce Homes Affordable to Lower-Income Households?

Yes, with some caveats. In some places affordable housing production totals are relatively small, suggesting that an inclusionary housing policy should be considered one component of a comprehensive affordable housing strategy. Furthermore, the effectiveness of inclusionary housing programs also depends critically on the nature of the local housing market and how the program is designed.

Because local jurisdictions are not required to track the number of units produced through their inclusionary housing programs, it is challenging to get a complete picture of how many total inclusionary units have been produced. In addition, many inclusionary housing programs have alternative compliance options. These include in-lieu fees, which are often combined with other affordable housing resources, making it nearly impossible to identify units resulting from an inclusionary housing program. The best estimate available is that, as of 2010, inclusionary housing policies nationally have produced between 129,000 and 150,000 affordable units.<sup>9</sup> Historically, production has been driven inclusionary housing programs in California and the Washington, DC region, particularly Montgomery County, Maryland.

Two studies have suggested that inclusionary housing programs in California have produced at least 29,000

affordable units. In 2009, the California Coalition for Rural Housing published an online database of 145 local inclusionary housing programs in California, which included a wealth of program information including production totals for those jurisdictions.<sup>10</sup> Using that database and other sources, researchers estimated that the local inclusionary housing programs in California altogether produced about 29,000 affordable housing units between January 1999 and June 2006.<sup>11</sup> The Non-Profit Housing Association of Northern California also examined inclusionary housing programs in California, and estimated that by 2007 these programs had resulted in the development of 29,281 units, including nearly 5,000 units developed as a result of in-lieu contributions.<sup>12</sup>

There are also several regional studies of inclusionary housing programs. In a 2008 study, Jenny Schuetz, Rachel Meltzer and Vicki Been examined inclusionary housing programs in the San Francisco region, identifying 55 jurisdictions with inclusionary housing programs and finding that a total of 9,154 inclusionary units had been built under these programs from the 1970s to the early 2000s.<sup>13</sup> Benjamin Powell and Edward Stringham estimated in 2004 that the inclusionary housing programs in 13 cities in Los Angeles and Orange counties led to the production of 6,379 units over the lifetimes of the programs.<sup>14</sup>

Jenny Schuetz and her fellow researchers also examined programs in the Washington, DC and Boston regions. In five counties in the Washington, DC metropolitan area with inclusionary housing programs, an estimated 15,252 inclusionary housing units had been built between the years the various programs were implemented and 2008. Montgomery County, Maryland, was the most productive—and long-standing—program in the region and the nation with more than 13,000 units produced. The situation was different in the Boston metropolitan area, where there were 99 cities and towns with inclusionary housing programs. As of 2008, about 43 percent of those programs had not produced any units. The study authors were not able to collect exact production counts but suggested that the Boston area inclusionary housing programs had “produced relatively few affordable units, probably in part because so many programs in the area [had been] enacted relatively recently.”

Several other studies have documented the affordable housing production associated with inclusionary programs in other parts of the country (see Table 1). For example, Heather Schwartz and her co-authors found that the inclusionary program in Chicago produced more than 200 affordable units per year. In Burlington, Vermont, half of all new residential construction was attributed to the city’s inclusionary housing program. But many programs were found to have had very low production totals. Davidson, North Carolina’s program averaged only five units per year, and Denver’s program averaged only eight units per year.

Based on this research review, it is clear that inclusionary housing programs can and do result in the production of affordable housing units, but there is considerable variability across jurisdictions. The existing research does not systematically address the reasons for the differences in the production totals associated with different programs. However, as will be discussed below, the way the program is designed and the economic and housing market conditions in which it operates are important factors in a program’s success.

**TABLE 1. Affordable Housing Units Produced by Local Inclusionary Housing Programs: Results from Key Research Studies**

Jurisdiction	Period	Total Inclusionary Units Produced*	Average Number of Inclusionary Units Produced per Year	Source
Montgomery County, MD	1974–2011	13,246	358	a
Fairfax County, VA	1990–2011	2,448	117	a
Prince George’s County, MD	1993–1996 (repealed)	1,600	400	g
San Francisco, CA	2002–2008	1,328	83	c
Chicago, IL	2003–2009	1,235	206	d
San Diego, CA	1992–2003	1,200	109	e
Huntington Beach, CA	2002–2010	1,071	134	c, f
Santa Monica, CA	1990–2009	862	45	d
Emeryville, CA	1990–2009	706	37	c
Mahwah Township, NJ	1985–2010	650	26	c
San Clemente, CA	1999–2006	627	90	c
Santa Fe, NM	1999–2010	593	54	d
Sunnyvale, CA	1980–1999	529	28	c
Freehold Township, NJ	1984–2010	519	20	c
Loudoun County, VA	1993–2001	509	64	g
Montville Township, NJ	1985–2010	407	16	c
Cambridge, MA	1998–2010	385	32	d
Boulder, CO	2000–2009	364	40	d
San Bruno, CA	1999–2006	325	46	c
Monrovia, CA	1990–2003	280	22	f
Brea, CA	1993–2003	278	28	f
Washington, DC	2009–2014	211	42	b
Boston, MA	2000–2004	200	50	e
Burlington, VT	1990–2012	200	9	d
San Juan Capistrano, CA	1995–2003	196	25	f
Chapel Hill, NC	2000–2002	154	77	e
Laguna Beach, CA	1985–2003	139	8	f
Denver, CO	2002–2012	77	8	c
Davidson, NC	2001–2011	54	5	c
Mill Valley, CA	1990–2010	35	2	c
Virginia Beach, VA	2007–2013	7	1	c

\*New units, excludes units produced through in-lieu fees.

Sources:

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- Powell, Benjamin and Edward Stringham. 2004. *Housing Supply and Affordability: Do Affordable Housing Mandates Work?* Los Angeles, CA: Reason Public Policy Institute.
- Calavita, Nico and Alan Mallach, eds. 2010. *Inclusionary Housing in International Perspective: Affordable Housing, Social Inclusion, and Land Value Recapture*. Cambridge, MA: Lincoln Institute of Land Policy.
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# Do Inclusionary Housing Programs Reduce Overall Housing Production and/or Increase Market Prices?

If affordability requirements lead to significant increases in the cost of development, it is possible that a local inclusionary housing program could result in a reduction in the overall supply of housing, at least in the short run. Developers could choose to build fewer units in a particular jurisdiction (e.g., in only the most profitable neighborhoods) or decide not to build at all. Affordability requirements could also theoretically lead to increases in the prices of market-rate housing. To subsidize the cost of providing the below-market units, the developer could increase the prices or rents of the market-rate units.

There have been several theoretical discussions of these potential outcomes, as well as empirical evaluations of impacts for specific programs. It is important to understand the economic theory underpinning a potential response to an inclusionary housing requirement.<sup>15</sup> However, the stylized economic discussions tend to exclude an analysis of the cost offsets and incentives that are part of most inclusionary housing programs.<sup>16</sup> Furthermore, the theoretical studies demonstrate that affordability requirements primarily impact the price of land over the long run. But these studies also usually fail to account for the constrained supply of land that puts upward pressure on land prices in many markets where inclusionary housing programs operate.<sup>17</sup> Thus, results from the theoretical literature do not provide adequate practical guidance on the impacts of inclusionary housing programs.

Some empirical studies examine the supply and price effects in localities that have actually implemented inclusionary housing programs. It is difficult to conduct rigorous, methodologically sound impact evaluations of these programs. Ideally, an impact evaluation would estimate changes in housing supply and prices in a particular local jurisdiction with an inclusionary housing program and compare those outcomes to what would have happened in that same local jurisdiction had there not been an inclusionary housing program in place. Of course, this is impossible, so the best approaches compare outcomes in places with inclusionary housing programs to outcomes in similar places without programs and use multivariate analyses to control for other factors that might impact housing supply and prices (e.g., unemployment rates, mortgage rates). Unfortunately, very few research studies have used this rigorous approach in the evaluation of the impacts of inclusionary housing programs.

Among these robust studies, however, the researchers find a mixed bag in terms of the effects inclusionary housing programs have on the overall supply of housing and on market prices, with **generally no impacts on supply and no or modest impacts on prices**. Notwithstanding economic theory, these empirical studies suggest that the relationship between affordability requirements and the housing market is complicated and highly dependent on the unique characteristics of the local economy and housing market and on the specific design, implementation and tenure of particular programs.

The potential impacts of inclusionary housing programs are highly dependent on local economic and housing market conditions.

In a 2002 study of 28 California cities, David Paul Rosen and Associates measured the impact of inclusionary housing programs on housing production, comparing places with and without an inclusionary program and accounting for a set of economic and other factors that could also affect market activity. They found that inclusionary housing programs had no negative effect on overall housing production in California cities, and that housing production was most strongly dependent on the local unemployment rate and the price of new-construction homes.<sup>18</sup>

Examining 17 inclusionary housing programs in localities in Los Angeles and Orange counties in California, Vinit Mukhija and his colleagues controlled for characteristics of the local economy and housing market to assess program impacts. They found no negative impact on overall housing supply resulting from the implementation of inclusionary housing programs in localities in these counties.<sup>19</sup>



In a recent analysis of 125 local inclusionary housing programs in California, Ann Hollingshead found that when inclusionary housing programs were weakened (in this case as a result of a court decision), rental prices in those localities actually increased, rather than decreased as economic theory might suggest.<sup>20</sup> A lack of sufficient data precluded Hollingshead from reporting results on housing starts, though the descriptive data suggest that localities with inclusionary housing policies actually rebounded from the housing market downturn faster than those without.

In their analysis in San Francisco Jenny Schuetz and her co-authors included a series of economic, demographic and housing market characteristics to estimate potential housing market impacts of inclusionary housing programs. Unique to this study is the inclusion of variables that describe particular characteristics of the programs, including the length of time the program had been in existence, whether it was mandatory or voluntary, whether there was a density bonus or an in-lieu option, and the minimum project size that triggered the affordability requirements. They found no impacts on housing production or prices associated with local inclusionary housing programs in the San Francisco region. Conducting the same analysis in the Boston area, they found modest declines (10 percent on average) in

new housing starts and a modest increase in prices (1.4 percent on average) associated with the adoption of a local inclusionary housing program.<sup>21</sup> While this study includes variables that measure program characteristics, the researchers did not find any significant relationship between program design and outcomes, except that programs that had been on the books longer were more likely to have produced affordable units.

A team of researchers at the National Center for Smart Growth Research and Education also used multivariate analysis techniques to estimate housing market impacts of 65 inclusionary housing programs in California over the 1998-2005 period.<sup>22</sup> The researchers found that cities with inclusionary housing programs did not experience a significant reduction in the rate of single-family housing starts. However, the number of multifamily housing starts increased significantly in places with inclusionary housing programs compared with those that did not have programs. As a result, cities with inclusionary housing programs experienced an increase in the share of new starts that were multifamily. The researchers found that inclusionary housing programs were associated with an increase in single-family home prices of 2.2 percent, on average. However, in higher-priced markets the impact was estimated to be as high as five percent.

**Most rigorous research on inclusionary housing programs finds no effect on housing starts and only modest, if any, impact on home prices.**



**TABLE 2. Housing Market Impacts Associated with Local Inclusionary Housing Programs: Results from Key Evaluation Studies**

Jurisdiction	Period	Impacts on Overall Housing Supply	Impacts on Home Prices/Rents	Source
California (28 programs)	1981–2001	No negative effect on housing starts	N/A	a
California (65 programs)	1988–2005	No decline in single-family starts; increase in multi-family starts	Increase of 2.2 percent in single-family prices	b
California (125 programs)	2007–2013	N/A	Stricter programs associated with 1.9-percent decline in rents	c
San Francisco, CA (55 programs)	1987–2004	No negative effect on housing starts	No effect on home prices	d
Los Angeles and Orange Counties, CA (17 programs)	1998–2005	No negative effect on housing starts	N/A	e
Boston, MA area (99 programs)	1987–2004	Up to a 10% decline in housing starts	Increase of 1 percent in single-family-home prices	d

Sources:

- David Paul Rosen and Associates. 2002. *City of Los Angeles Inclusionary Housing Study: Final Report*. Los Angeles, CA: Los Angeles Housing Department.
- Knaap, Gerrit-Jan, Antonio Bento, and Scott Lowe. 2008. *Housing Market Impacts of Inclusionary Zoning*. Washington, DC: National Center for Smart Growth Research and Education.
- Hollingshead, Ann. 2015. *When and How Cities Should Implement Inclusionary Housing Policies*. Portland, OR: Cornerstone Partnership.
- Schuetz, Jenny, Rachel Meltzer, and Vicki Been. 2008. *31 Flavors of Inclusionary Zoning: Comparing Policies from San Francisco, Washington DC and Suburban Boston*. New York, NY: Furman Center for Real Estate and Urban Policy.
- Mukhija, Vinit, Lara Regus, Sara Slovin, and Ashok Das. 2010. "Can Inclusionary Zoning Be an Effective and Efficient Housing Policy? Evidence from Los Angeles and Orange Counties," *Journal of Urban Affairs* 32: 229–252.

There are descriptive studies that have concluded that inclusionary housing programs have led to a significant reduction in housing supply and a significant increase in housing prices.<sup>23</sup> However, these studies have been widely criticized for their lack of methodological rigor, and their results should be interpreted cautiously.<sup>24</sup> In addition, there are numerous case studies of inclusionary housing programs that include accounts that support an adverse impact on housing production and market prices.<sup>25</sup> But there are also case studies that have demonstrated no negative impacts.<sup>26</sup> The research cited above provides a much better picture of what the market impacts have been in places with inclusionary housing programs. However, there are limitations in the existing research.

First, most of the impact evaluations have focused on the experience in California, which is not necessarily representative of the potential ways in which inclusionary

housing programs would impact housing markets in most of the rest of the country. While some studies have examined the impacts of programs in different regions across the state, the economic, regulatory and political environment in California is different than in many other states. Second, these evaluations (with the exception of Hollingshead's 2015 report) were conducted using housing market and program data from before the economic recession and housing market downturn, and before key changes to inclusionary housing programs in California that resulted from the Palmer court decision that restricted the design of inclusionary housing programs in the state.<sup>27</sup>

Finally, although these studies use generally accepted research approaches to study impacts, it is difficult to draw conclusions from the existing research about the specific characteristics of inclusionary housing programs that might make them more or less effective.

Most evaluations of inclusionary housing programs have been done in California. More research is needed on how inclusionary housing programs work in different kinds of markets.

# What Factors Are Associated with Successful Inclusionary Housing Programs?

There is a substantial amount of variation in how inclusionary housing programs are designed, how many affordable units they produce, and how they could potentially affect housing starts and home prices and rents. There has been no empirical, systematic analysis of the relationships among program design, local housing market and economic conditions, and impacts of inclusionary housing programs. However, several conclusions may be drawn from the research described above, as well as from case studies and other reports on inclusionary housing programs, about how to design local inclusionary housing programs that are best able to produce affordable housing and limit potential negative impacts on the overall housing supply and prices.

## 1) Inclusionary housing programs work best in strong housing markets.

By design, inclusionary housing programs link the production of affordable housing to market-rate development. When there is no market-rate construction, there is no affordable housing development.

In case studies of inclusionary housing programs conducted by the National Association of Home Builders, local jurisdictions cited the weakness of the housing market as the primary reason for the failure of their inclusionary housing programs to produce any affordable housing units.<sup>28</sup> A review of the state of inclusionary housing programs after the economic recession conducted by Robert Hickey at the National Housing Conference demonstrated that localities that ended their inclusionary housing programs during or after the recession often did so because of weak housing markets.<sup>29</sup>

In stronger housing markets, inclusionary housing programs do have the potential to produce significant numbers of affordable units with negligible impact on housing markets. For example, housing demand in Fairfax County, Virginia, has been very strong, driven by the fast pace of job growth in Washington, DC and northern Virginia. Inclusionary housing requirements in the Tysons Corner area of Fairfax County have not slowed development. Thousands of apartments are under construction or have received approvals in Tysons Corner since the county approved new affordability guidelines.<sup>30</sup>

Even in hotter housing markets, there is no one-size-fits-all approach to crafting an effective inclusionary housing program. Based on the existing research and program reviews, there are some characteristics that seem to be associated with more productive and efficient programs.

## 2) Mandatory programs tend to work better than voluntary programs.

Mandatory programs result in the production of more affordable housing units than voluntary programs do, and despite claims to the contrary, mandatory inclusionary housing programs generally do not depress new construction in strong housing markets.<sup>31</sup> The evaluations of the impacts of inclusionary housing programs examined primarily mandatory programs and found that these programs have not caused decreases in overall levels of housing production or substantial increases in market prices. In the studies of programs in California, several researchers concluded that the top-producing local programs in the state were mandatory programs.<sup>32</sup> Montgomery County, Maryland, has a mandatory program that has produced about 13,000 units since it was implemented in 1974, making it the most productive inclusionary housing program in the country.<sup>33</sup>

An estimated 83 percent of all local inclusionary housing programs across the country are mandatory.<sup>34</sup> In a historic decision in March 2016, the New York City Council passed legislation to replace the city's voluntary inclusionary housing policy with a mandatory program, creating the nation's largest and most ambitious inclusionary housing program.<sup>35</sup>

While mandatory programs have been shown to be more effective at producing affordable units, several researchers have concluded that voluntary programs can also produce affordable housing when they are

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treated as though they are mandatory (e.g., projects are approved only when they include affordable units) and/or when there are appropriate incentives or offsets (see below) that make the voluntary option attractive.<sup>36</sup> In places where mandatory inclusionary housing programs are prohibited by state statute,<sup>37</sup> a voluntary program is the only option. Rick Jacobus and others have noted that voluntary programs that offer density bonuses or other incentives in exchange for voluntarily building affordable housing can be effective and also can protect programs from legal challenge.<sup>38</sup>

### **3) Effective inclusionary housing programs include incentives that offset the cost to developers.**

One of the primary criticisms about the economic literature around the impacts of inclusionary housing programs is that those studies assume that inclusionary housing programs include no incentives or offsets to counterbalance the requirement to provide affordable housing. In fact, most programs include some sort of cost offset or incentive. Density bonuses, modified development standards (e.g., reduced parking requirements), fee waivers, and expedited permit and/or approvals processes are all examples of the types of incentives that are commonly part of inclusionary housing policies.

According to a review of California's inclusionary housing programs by the Non-Profit Housing Association of Northern California, most jurisdictions provide a financial incentive to developers under their inclusionary housing programs. In an assessment of different approaches to designing local inclusionary housing programs, Jenny Schuetz and her fellow researchers found that mandatory programs with no offsets can lead to lower overall numbers of units produced (although the impact can vary depending on local market and economic conditions), but mandatory programs with cost offsets including density bonuses and fast-track permitting are much more effective at creating an environment where an inclusionary housing program can both create more affordable units and mitigate potential negative impacts on the overall housing market. In their evaluation of programs in the San Francisco area, the researchers found that the number of affordable units built increased with the presence of a density bonus.

According to a recent report by Rick Jacobus, increased density has become the most common incentive offered by local inclusionary housing programs.<sup>39</sup> Density bonuses can work well in a variety of strong housing markets. However, there are some situations where density bonuses are not as effective. In her analysis of

Montgomery County, Maryland's inclusionary housing program, Karen Brown noted that density bonuses have not been as effective in promoting affordable housing development in areas of the county that are already zoned for high-rise construction. After a certain height and density, land costs become an increasingly smaller portion of overall development costs, and the benefits of the extra density do not provide the same level of subsidy that they would in a smaller-scale project.<sup>40</sup>

Furthermore, increasing density can be a hot-button issue in many communities. Offering a density bonus in exchange for affordable housing production can be difficult if there is strong community opposition to taller buildings and increased density.<sup>41</sup> It is important, then, that the density increases work within the overall community planning process. In addition, density bonuses do not work if a local jurisdiction changes the underlying zoning to allow higher densities by right—that is, without complying with any affordability requirements. Tying the density bonus and affordability requirements to rezoning is an important component of making the link work.<sup>42</sup>

### **4) Predictable programs with clear guidelines are most effective.**

Nicholas Brunick,<sup>43</sup> Rick Jacobus<sup>44</sup> and others who have studied inclusionary housing programs in depth have raised the importance of predictability in inclusionary housing programs. Ad hoc policies or programs with rules that change at the whim of administrators or elected officials have a good chance of stymieing housing development in a locality. Knowing the rules of the development process is key to builders as they develop pro formas, seek financing for projects and analyze market demand.

In interviews in Fairfax County, Virginia, and Montgomery County, Maryland—both suburbs of Washington DC—researchers found that the most important factor to developers working in a locality with an inclusionary housing program was predictability in the program requirements.<sup>45</sup> Clear requirements and consistent administration of an inclusionary housing program were important so that developers could better estimate their potential profit; a loss of this predictability could mean a decline in overall housing production as developers choose to build in other markets.

When there is predictability, developers consider affordability requirements as a cost of doing business in a desirable location, similar to other requirements that localities often impose, including design standards, green building techniques and open space dedications.<sup>46</sup>

## 5) Successful inclusionary housing programs have flexible compliance options.

Flexible compliance options give developers a choice in how to meet affordability requirements associated with an inclusionary housing program. Building affordable units on site as part of the market-rate development has traditionally been the default requirement, but many policies allow developers to build affordable units off-site or contribute cash or land in lieu of building units. Flexible inclusionary housing policies help improve feasibility by offering developers various ways to meet affordability obligations.<sup>47</sup> For example, a study of programs in the Washington, DC suburbs showed that an in-lieu option made smaller projects more financially feasible under mandatory inclusionary housing requirements.<sup>48</sup>

In several studies in California, researchers found that flexibility in compliance was a key element of productive inclusionary housing programs.<sup>49</sup> Ann Hollingshead found that programs that require on-site units and those that allow developers to pay a fee in lieu of providing units can both be productive types of inclusionary housing policies. The extent to which one approach is better than the other depends on a range of factors, including the cost of land in the jurisdiction, the ability for the jurisdiction to leverage other resources for affordable housing, the extent of local NIMBYism, the administrative capacity of the local government and the capacity of local non-profit developers. In her analysis, Hollingshead suggested that having a “blended policy” that offers both an on-site option and an in-lieu option can lead to greater affordable housing production.

Rick Jacobus has noted that off-site production using in-lieu fees can result in more overall affordable-housing production in some local markets. However, in addition to being able to leverage resources and having non-

profit developer capacity, the locality also has to have sufficient land on which to build off-site units.

While flexibility can lead to more affordable-housing production, the types of alternative compliance options, if any, should be aligned with the local jurisdiction's overarching goals. If the primary goal is to promote economic and social integration, off-site or in-lieu options are less likely to be effective. Developers will likely build affordable units in places where land is cheaper, and these units likely will be less connected to transportation, jobs and other community amenities. In large cities and urbanizing suburbs, a limited supply of available land can limit the impact of in-lieu fees. Even with sufficient resources in a local housing trust fund and high-capacity non-profit developer partners, local jurisdictions will not be able to develop affordable housing in high-opportunity neighborhoods if no land is available. Thus, a local jurisdiction's ability to achieve a goal of economic integration through its inclusionary housing policy could be constrained without an on-site requirement.<sup>50</sup> However, if a jurisdiction wants to maximize the overall supply of affordable housing in the jurisdiction, regardless of the locations of affordable units, off-site and in-lieu options can be effective.<sup>51</sup> Striking a balance among potentially competing goals is an important part of designing an effective inclusionary housing strategy.

Finally, the flip side of flexibility, of course, is a loss of predictability, which is also a valuable feature of successful inclusionary housing programs. In its review of mandatory inclusionary housing requirements in New York City, the NYU Furman Center for Real Estate and Urban Policy highlighted the importance of having a flexible program that can respond to changing market conditions. However, the authors of the report were quick to point out that flexibility introduces uncertainty and creates a potential for inclusionary housing requirements to become a “politicized process.”<sup>52</sup>

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# Conclusions

Almost every community in America struggles with how to ensure there is a sufficient supply of housing for individuals and families of all incomes. With limited federal resources for affordable housing, local jurisdictions continue to look for local tools to create and preserve housing affordable to lower-income households. An inclusionary housing policy can be one important strategy in a local jurisdiction's comprehensive affordable housing strategy. In the right market, adopting an inclusionary housing policy can help facilitate the development of affordable units and promote social and economic integration. Other programs, such as the Low-Income Housing Tax Credit (LIHTC), might produce more overall units, but affordable housing produced through an inclusionary housing program could more effectively distribute housing in high-opportunity neighborhoods.<sup>53</sup>

An inclusionary housing program utilizes local land use and zoning regulations, which gives local jurisdictions more control over the means by which affordable housing is developed. However, despite this local authority, it is important to keep in mind that housing developed under an inclusionary housing program often requires the use of resources from other, federal programs to make homes affordable to lower-income households, including the LIHTC and Housing Choice Voucher (HCV) programs. Local inclusionary housing programs will not work well in most places if these other resources are not available.

Whenever a policy changes the way housing is built in a community, there is bound to be pushback. Knowing that the best research generally finds either no negative impacts or only very small impacts on housing markets

is important for responding to potential criticisms of proposed inclusionary housing programs. Furthermore, in high- and rising-cost markets, there is good evidence that well-designed inclusionary housing programs can be effective. **In general, mandatory programs in strong housing markets that have predictable rules, well-designed cost offsets, and flexible compliance alternatives tend to be the most effective types of inclusionary housing programs.** Requirements related to other program elements, including income targets and minimum project size, could also influence the effectiveness. There is less research on the impacts of these program design elements on affordable housing production and housing market outcomes.

The best approach to designing the most effective inclusionary housing program for a particular community is to conduct an economic feasibility analysis, which can help clarify the program requirements that would work best in a particular market. In developing its mandatory inclusionary housing program, New York City commissioned a study to evaluate how the program would impact the financial feasibility of new residential development in the city under a range of market conditions and program requirements.<sup>54</sup> The results of this analysis, which included economic and financial forecasts as well as in-depth interviews with developers in the city, helped the city feel confident that the affordability requirements included in its mandatory inclusionary housing program would actually lead to units being built and would not stifle overall housing development. Not all jurisdictions have the capacity to either conduct or contract out such a study, but a systematic look at the possible ways an inclusionary housing program could be designed and how those elements might operate in a particular locality is an important step for ensuring an effective and efficient inclusionary housing program.

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Formed in 1931, the nonprofit National Housing Conference is dedicated to helping ensure safe, decent and affordable housing for all in America. As the research division of NHC, the Center for Housing Policy specializes in solutions through research, working to broaden understanding of America's affordable housing challenges and examine the impact of policies and programs developed to address these needs. Through evidence-based advocacy for the continuum of housing, NHC develops ideas, resources and policy solutions to shape an improved housing landscape.



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