



Town of Davidson
Affordable Housing and Equity Board Regular Meeting
Community Room 120
251 South Street
Thursday, October 17, 2024 at 6:30 PM

I. CALL TO ORDER

II. WELCOME & INTRODUCTIONS

III. PUBLIC COMMENT

IV. REVIEW/APPROVAL OF MINUTES

a. September 19, 2024, Meeting Minutes

Summary: Approve the minutes from the September 19, 2024, regular meeting.

V. OLD BUSINESS

a. Subcommittee Updates

Summary: To receive updates from the subcommittee meetings held on September 12, 2024.

b. Group Agreements

Summary: These are the group agreements the Affordable Housing and Equity Board uses to guide deliberations.

VI. NEW BUSINESS

a. Discuss Proposed Davidson Planning Ordinance (DPO) Updates to Chapter 5: Affordable Housing

Presenter: Alexander Cahill, Affordable Housing & Equity Director

Summary: Planning Department staff is working with Affordable Housing & Equity Department staff to develop an update to the Davidson Planning Ordinance (DPO) Chapter 5: Affordable Housing. Goals for the update include ensuring that best practices are aligned with the DPO, improving developer-based affordable housing plans and the process to manage said plans, developing incentives to secure more built units, addressing the rental gap (as documented in the Affordable Housing Needs Assessment and Implementation Strategy), simplifying the chapter's structure, and providing improved clarity and options for developers.

Potential options include both administrative (built units or payments-in-lieu), or legislative (opting out of the requirements of the chapter and electing to pursue conditional approval).

Action/Proposed Motion: This item is for discussion only.

VII. OTHER ITEMS

a. Staff Updates

Summary: To receive announcements from Town staff on upcoming projects, events, and other information relevant to the Board.

VIII. ADJOURNMENT



AGENDA MEMO

To: Davidson Board of Commissioners
From:
Date: October 17, 2024
Re: September 19, 2024, Meeting Minutes

ITEM SUMMARY/OVERVIEW

Approve the minutes from the September 19, 2024, regular meeting.

ACTION/PROPOSED MOTION

Approve the minutes from the September 19, 2024, regular meeting.

RELATED TOWN GOALS

NEXT STEPS



AFFORDABLE HOUSING & EQUITY BOARD

MINUTES

September 19, 2024, 6:30 p.m.
Community Room 120, Town Hall & Community Center
251 South Street, Davidson, NC

I Call to Order

Chair Tisdale called the meeting to order at 6:32pm.

II Roll Call

Quorum is present (Guernsey, Roeder absent)

III Public Comment

There were no public comments made.

IV Approval of the Minutes from August 15, 2024

Discussion: There was no discussion of the August 15, 2024, minutes.

MOTION: Recommended approval of August minutes (Graf, Duke 2nd)

ACTION: Motion carried, 11-0

V Old Business

A. Updated Bylaws

Discussion: There was no discussion, and the Board made a motion to approve.

MOTION: Recommended approval of amended bylaws (Duke, Sponsel 2nd)

ACTION: Motion carried, 11-0

B. Subcommittee Update

Discussion: The affordable housing subcommittee reported on the DPO presentation made by the Planning Director. The committee stated the presentation would come to the full board and we would discuss it in October. The equity subcommittee shared in on their discussion of the Town; s definition of equity, the idea of helping support and operationalize the definition, and

asked how the Town Board uses it. The group stated they would use it to: conduct analysis, define the problem and opportunities, and inform restorative justice in the Town's work.

C. Ex-Officio Quarterly Update

Lake Norman CDC, Davidson Housing Coalition, Habitat for Humanity Charlotte, and the Davidson Community Foundation shared in updates. A representative of Ada Jenkins was not present.

VI New Business

A. DPO Chapter 5 Amendment

Discussion: The Board voted to continue to the October 17, 2024 meeting.

VII Other Items

Town staff did not present in on the Affordable Housing Implementation Strategy. Town staff stated that a draft action plan would come before the Board in November.

VIII Staff Announcements

- A. Updates from Town Board of Commissioners meeting
- B. Updates on what's coming up in the Town
- C. 153 Mock Road
- D. MLK Day Help

IX Adjournment

- A. Referred to the group agreements to see how well they worked
- B. Chair Tisdale requested an adjournment at 8:36pm

MOTION: Move to adjourn (Guernsey, Duke 2nd)

ACTION: Motion carried, 11-0



AFFORDABLE HOUSING & EQUITY BOARD

GROUP AGREEMENTS

1. Embrace the truth, lived experience and history, and test your assumptions
2. Seek understanding and be curious
3. Create space for others to share
4. Be here, be present, be engaged
5. Honor and accept personal responsibility – be vulnerable and thoughtful
6. Be patient, tolerant, and have grace
7. Embrace tension, be agreeable while working together
8. Utilize the parking lot for tangents



AGENDA MEMO

To: Davidson Board of Commissioners

From: Alexander Cahill, Affordable Housing & Equity Director

Date: October 17, 2024

Re: Discuss Proposed Davidson Planning Ordinance (DPO) Updates to Chapter 5: Affordable Housing

ITEM SUMMARY/OVERVIEW

Planning Department staff is working with Affordable Housing & Equity Department staff to develop an update to the Davidson Planning Ordinance (DPO) Chapter 5: Affordable Housing. Goals for the update include ensuring that best practices are aligned with the DPO, improving developer-based affordable housing plans and the process to manage said plans, developing incentives to secure more built units, addressing the rental gap (as documented in the Affordable Housing Needs Assessment and Implementation Strategy), simplifying the chapter's structure, and providing improved clarity and options for developers. Potential options include both administrative (built units or payments-in-lieu), or legislative (opting out of the requirements of the chapter and electing to pursue conditional approval).

ACTION/PROPOSED MOTION

This item is for discussion only.

RELATED TOWN GOALS

Strategic Plan Alignment

Affordable Living, Equity & Inclusion - Work together to foster a culture of equity, belonging, inclusion, and advance the Town's Affordable Housing program. Provide, create, and support opportunities for all. Treat everyone with respect, dignity, and recognize every voice.

Core Values

Davidson's historic mix of people in all income levels and ages is fundamental to our community, so town government will encourage opportunities, services, and infrastructure that allow people of all means to live and work here.

NEXT STEPS

Work with Planning Board Ordinance Committee, Affordable Housing & Equity Board, and other stakeholders to develop proposed text.



Davidson Planning Ordinance (DPO) Chapter 5 Proposed Text Amendments

Jason Burdette
Planning Director
August 27, 2024

www.townofdavidson.org

Strategic Plan

Goal D: Affordable Living, Equity & Inclusion– Work together to foster a culture of belonging, inclusion, and advance the Town’s Affordable Housing program.

- Priority Strategy 1: Advance priorities identified in the Affordable Housing Needs Assessment Implementation Strategy.
- Priority Strategy 4: Research workforce housing options and opportunities.

PLAN SUPPORT (CONT.)

Davidson Comprehensive Plan

Goal 5.2 Diverse and Inclusive Housing Options:

- Policy 5.2.1 Foster a Diversity of Housing Options: Foster a diversity of well-integrated housing options within neighborhoods...not limited to tenure, type, and income.
- Policy 5.2.2 Promote Permanent Affordable Housing Infrastructure: Promote the construction, protection, and management of high-quality affordable housing including low-income and very low-income households...Affordable homes should continue to be required and provided...
- Policy 5.2.6 Support Private Devp't of Affordable Housing: Continue to promote the construction of affordable housing in private development through incentives, regulations...

PLAN SUPPORT (CONT.)

Affordable Housing Needs Assessment & Implementation Strategy

ASSESSMENT:

- Goal: Create New Affordable Housing Units
- Greatest Need: Those Earning Less than 80% AMI & Rental

IMPLEMENT (CREATE):

- Developer Incentives
- Affordable Housing Ordinance

PROPOSED CHANGES: PURPOSE

- **Ensure that Best Practices Align with DPO**
- **Improve Developer Affordable Housing Plans**
 - Template/Management
- **Develop Incentives to Secure More Built Units**
- **Address the Rental Gap**
 - Affordable Housing Needs Assessment/Implementation Strategy
 - Data Based
- **Simplify Chapter's Structure**
- **Improve Clarity & Options for Developers**

PROPOSED CHANGES: DRAFT SUMMARY

- **DPO 5.1 General Goals**

- Clarify Goals of Chapter
- Direct Ties to Adopted Plans
 - Comprehensive Plan
 - Strategic Plan
 - Affordable Housing Needs Assessment + Implementation Strategy
- Direct Ties to State Statute (N.C.G.S. 160D & N.C.G.S. 157)

PROPOSED CHANGES: DRAFT SUMMARY

▪ **DPO 5.2 Affordable Housing Standards**

- Increase Development Applicability to 12 units (Aligns with 12.5% Goal)
- Provide Options for Compliance
 1. Administrative: Build Units or Payment-in-Lieu (PIL)
 2. Legislative: Opt-Out of Chapter Requirements; Enter Conditional Process
- Clarify Compliance Through Various Processes (Master Plan, Construction Docs, Final)
- Remove Complex AMI Distribution Table
- Simplify Required Units/Built Unit Waiver Incentive

PROPOSED CHANGES: DRAFT SUMMARY

- **DPO 5.3 Affordable Housing Plan**
 - Clarify Exact Requirements of Affordable Housing Plans (Plug & Play Template)
 - Remove Excess Requirements Better Suited for Policy Docs

PROPOSED CHANGES: IDEAS

- **Should Town Maintain 12.5% Requirement?**
 - Pros/Cons of Built Unit Waiver Incentive
- **Should Town Maintain Built Unit Waiver Incentive?**
- **Options: Administrative (Comply) & Legislative (Opt Out, Cond.)**
- **Explore Ways for Affordable Rental to be Included in Multi-Family Development**

PROPOSED CHANGES: FEEDBACK

- **Staff (Planning, Affordable Housing & Equity, Town Attorney)**
- **Planning Board Ordinance Committee (PBOC)**
- **Affordable Housing & Equity Board (AHEB)**
- **Other Stakeholders**
 - Developers
 - Consultants
- **Case Studies**
 - Other Communities Working on Affordable Housing

NEXT STEPS

Fall:

- Solicit Feedback from PBOC & AHEB
- Solicit Feedback from Developers/Consultants
- Research Case Studies

Winter:

- Begin Formal Text Amendment Process
- Public Hearing & Planning Board Recommendation
- Adoption (TBD)

DISCUSSION



Separating Fact from Fiction to Design Effective Inclusionary Housing Programs

By Lisa A. Sturtevant, Ph.D.

May 2016

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,¹ 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.² 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.



Adam Fagen/Creative Commons (<https://www.flickr.com/photos/afagen>)

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.³ 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.⁴ 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.⁵ Programs in California weathered legal challenges as well as bumpy economic conditions and continue to be an important tool for affordable housing production.⁶ And in the past few years, cities and towns across the country have adopted new inclusionary housing policies⁷ or are working to expand or modify existing programs.⁸

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.⁹ 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.¹⁰ 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 2006.¹¹ 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.¹²

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.¹³ 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.¹⁴

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:

- a. The Urban Institute. 2012. *Expanding Housing Opportunities Through Inclusionary Zoning: Lessons from Two Counties*. Washington, DC: U.S. Department of Housing and Urban Development.
- b. Hende, Leah, Peter A. Tatian, and Graham MacDonald. 2014. *Housing Security in the Washington Region*. Washington, DC: The Community Foundation for the National Capital Region.
- c. Hickey, Robert, Lisa Sturtevant, and Emily Thaden. 2014. *Achieving Lasting Affordability through Inclusionary Housing*. Cambridge, MA: Lincoln Institute of Land Policy.
- d. Brunick, Nicholas, Lauren Goldberg, and Susannah Levine. 2003. *Large Cities and Inclusionary Zoning*. Chicago, IL: Business and Professional People for the Public Interest.
- e. Powell, Benjamin and Edward Stringham. 2004. *Housing Supply and Affordability: Do Affordable Housing Mandates Work?* Los Angeles, CA: Reason Public Policy Institute.
- f. 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.
- g. Brown, Karen. 2001. *Expanding Affordable Housing Through Inclusionary Zoning: Lessons from the Washington Metropolitan Area*. Washington, DC: The Brookings Institution Center on Urban and Metropolitan Policy.

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.¹⁵ However, the stylized economic discussions tend to exclude an analysis of the cost offsets and incentives that are part of most inclusionary housing programs.¹⁶ 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.¹⁷ 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.¹⁸

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.¹⁹

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.²⁰ 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.²¹ 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.²² 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:

- a. David Paul Rosen and Associates. 2002. *City of Los Angeles Inclusionary Housing Study: Final Report*. Los Angeles, CA: Los Angeles Housing Department.
- b. 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.
- c. Hollingshead, Ann. 2015. *When and How Cities Should Implement Inclusionary Housing Policies*. Portland, OR: Cornerstone Partnership.
- d. 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.
- e. 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.²³ However, these studies have been widely criticized for their lack of methodological rigor, and their results should be interpreted cautiously.²⁴ 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.²⁵ But there are also case studies that have demonstrated no negative impacts.²⁶ 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.²⁷

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.²⁸ 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.²⁹

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.³⁰

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.³¹ 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.³² 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.³³

An estimated 83 percent of all local inclusionary housing programs across the country are mandatory.³⁴ 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.³⁵

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

83%

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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.³⁶ In places where mandatory inclusionary housing programs are prohibited by state statute,³⁷ 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.³⁸

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.³⁹ 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.⁴⁰

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.⁴¹ 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.⁴²

4) Predictable programs with clear guidelines are most effective.

Nicholas Brunick,⁴³ Rick Jacobus⁴⁴ 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.⁴⁵ 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.⁴⁶

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.⁴⁷ 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.⁴⁸

In several studies in California, researchers found that flexibility in compliance was a key element of productive inclusionary housing programs.⁴⁹ 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.⁵⁰ 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.⁵¹ 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.”⁵²

Striking a balance among potentially competing goals
is an important part of designing an effective
inclusionary housing strategy.

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.⁵³

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.⁵⁴ 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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Inclusionary Zoning

What Does the Research Tell Us about the Effectiveness of Local Action?

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As real wages stagnate, racial disparities grow, and housing prices soar in cities across the US, local governments are increasingly adopting laws and regulations that aim to reduce inequalities and improve access to economic opportunity for their residents (Berube et al. 2018; Greene et al. 2016). These new local laws span a broad range of areas, from protections against discrimination to proactive steps to reduce housing costs or raise incomes. At the same time, states are increasingly enacting laws that limit or preempt local action in these areas, often relying on a thin or nonexistent evidence base to suggest that local regulation is inefficient or overly burdensome (Briffault et al. 2018; Einstein and Glick 2017). In these four briefs, we explore and summarize the research on the effectiveness of local action in four areas: minimum wages, paid sick days, rent control, and inclusionary zoning. We also discuss general trends in state and local laws as well as opportunities to fill research gaps and improve evidence-based policymaking in each area.

Local inclusionary zoning (IZ) laws create affordable housing by encouraging or requiring developers to set aside a percentage of housing units to be sold or rented at below-market prices. These laws aim to provide housing to low-income residents who would otherwise be unable to afford it. IZ laws have been growing in popularity, and a recent estimate listed 866 jurisdictions with some form of IZ policy (Thaden and Wang 2017).¹ These laws are also increasingly subject to state preemption: as of 2017, 11 states had adopted laws that prevent localities from enacting mandatory IZ or limit their discretion in designing voluntary IZ policies (Schragger 2017). Proponents of state preemption of IZ often cite concerns about its impacts on private development and prices. Those advocating against preemption argue that affordable housing is most effectively approached at the local level because policy efforts can best be tailored to local market characteristics and needs.² But the evidence on IZ's effects on the private market is mixed, and a consensus has not been reached on whether these policies restrict development or raise prices. Some evidence suggests that IZ is effective at increasing the affordable

housing supply and encouraging economic opportunity, but overall research findings remain mixed. This indicates that the effects of IZ policies may be particularly sensitive to policy design considerations and market characteristics. In this brief, we synthesize the evidence on the effectiveness of local IZ laws and suggest areas in which further research could help policymakers, advocates, and the public improve state and local laws regarding IZ.

State and Local Trends

The first IZ policy, which is still active, began in Fairfax County, Virginia, in 1971.³ Although these policies have existed for decades, they have been growing in popularity over the past decade: over 70 percent of local IZ laws and policies were adopted after 2000 (Thaden and Wang 2017). Most IZ policies are local (adopted by cities and counties), although some state policies also encourage fair siting of affordable housing across diverse communities, such as New Jersey’s Council on Affordable Housing and the Massachusetts Chapter 40B requirement.⁴ The Grounded Solutions Network keeps a database of IZ policies and has identified 866 jurisdictions within 25 states with some type of inclusionary housing policy (Thaden and Wang 2017).⁵ Most programs are concentrated in Massachusetts, New Jersey, and California, but they exist throughout the country.

IZ laws are not identical, and some key differences in their design and implementation may influence their outcomes. Some laws require affordable units to be constructed at the same location as the market units, or “on-site”; others allow off-site affordable construction. Most IZ laws are mandatory, typically requiring developers to set aside affordable units; some other programs are voluntary but provide incentives for inclusionary development. IZ policies can apply to rental or for-sale units and specify varying terms of affordability. Jurisdictions can also offer different incentives to developers in return for building affordable units, such as density bonuses, zoning variances, or fee reductions. According to a recent overview (Williams et al. 2016), varying features include

- whether the law is mandatory or voluntary,
- the set-aside amount (required share of affordable housing; often between 10 and 20 percent),
- whether the law applies to rental or sale properties,
- how the law defines eligibility (such as by household income),
- term limits,
- whether the law applies to the entire jurisdiction or to specific housing types or locations,
- opt-outs (in lieu payments or ability to provide units off-site), and
- incentives.

As of 2017, 11 states had adopted laws that prevent localities from enacting mandatory IZ or that limit localities' discretion in designing voluntary IZ policies (Schragger 2017). In some cases, such as Tennessee, the state legislature acted in reaction to newly adopted local IZ laws, citing costs to developers for compliance.⁶ Oregon recently lifted a blanket ban on mandatory IZ laws and replaced it with restrictions on how local governments can design IZ policies.⁷

Research on Impacts

General Effectiveness of Inclusionary Zoning Laws

IZ laws are intended to create affordable, below-market housing that would otherwise not be created by private developers. IZ policies' effectiveness can be measured in different ways, such as the number of affordable units produced, how long units remain affordable, and who benefits from IZ laws. However, evaluating the effectiveness of IZ programs can be difficult because of variations in the design and implementation of each program that may affect outcomes. For example, mandatory IZ laws may have a different effect on housing construction than voluntary ones. Programs with varying cost offsets, such as density bonuses or fee waivers, may also have different impacts on housing production and other measures of effectiveness. With these limitations in mind, the evidence on the effectiveness of IZ has been mixed and is often dependent on location and policy type.

Estimating the exact number of affordable units created nationwide through IZ is difficult because of a lack of consistent data. Recent studies have claimed total counts of 150,000 to 173,000 (Sturtevant 2016; Thaden and Wang 2017). These estimates can be difficult to interpret because of missing data and variation between programs, but they generally indicate IZ programs are successfully creating affordable housing. However, these estimates represent the total number of units created over decades, since the earliest programs in the mid-1970s, and the number of units varies significantly across regions and jurisdictions.

Most of the units produced are in counties in Virginia, Maryland, Massachusetts, New Jersey, and California. Although IZ policies appear to be successful in producing units, other jurisdictions with IZ laws have produced very few or even no units (Stockton et al. 2016). The lack of effectiveness in some areas has been attributed to weak housing markets, a lack of enforcement, or a lack of development incentives for builders (Stockton et al. 2016). Another challenge is local capacity—some localities may not have sufficient staff available to work with developers to implement IZ requirements (Freeman and Schuetz 2016). Program design also appears to affect the production of affordable housing. For example, one study of programs in California found that mandatory programs produced more housing than voluntary programs (Mukhija et al. 2010). Further, the length of time a policy has been in place has been a significant predictor of the amount of housing produced in suburban Boston, San Francisco, and the Washington, DC, area (Schuetz, Meltzer, and Been 2007).

Another measure of effectiveness is the length of time that IZ can ensure affordability: long affordability windows allow these programs to continue to serve low-income families over time. A

survey of 273 IZ programs found that around 90 percent of IZ laws had affordability terms of at least 30 years (Thaden and Wang 2017). Further, 25 percent of programs had perpetual affordability terms, meaning they apply for the life of the building. Another study of 307 IZ programs found that around 80 percent of both homeownership and rental programs had affordability terms of at least 30 years and that 33 percent of programs required perpetual affordability (Hickey, Sturtevant, and Thaden 2014). The evidence suggests that IZ policies are capable of ensuring lasting affordability for these units.

Finally, homes constructed through IZ tend to serve residents with moderately low incomes, although they are generally not targeted to be affordable to the lowest-income households. Most IZ policies target families that earn 60 to 120 percent of the area median income, or AMI (Stockton et al. 2016). A recent survey of 185 IZ rental programs found that 42 percent of programs served families earning several percentages of the AMI. Thirty-seven percent of programs served families with a maximum income between 50 and 80 percent of AMI (Thaden and Wang 2017). That target population is different than those served by IZ homeownership programs, where a significant number of programs (21 percent) target people with incomes from 101 to 160 percent of AMI. A smaller case study of 11 IZ programs, mostly focused on homeownership, found that more than half serve households making 80 percent or less of AMI; other programs serve households making as little as 30 percent of AMI (Schwartz et al. 2012). Inclusionary homeownership programs appear to target a population with generally higher income than renters served by federal assisted-housing programs such as public housing, the low-income housing tax credit, or housing choice vouchers.

Effects of Inclusionary Zoning Laws on Developers

By requiring developers to sell or rent a percentage of their units at below-market level, IZ policies may drive up costs for market-rate units or reduce the production of new units. This potential for an adverse effect on the private market has been the main basis for state preemption of local IZ laws (Silverstein 2017). However, the evidence on the private-market effects of IZ is mixed. A starting point for recent debates were several 2004 studies conducted by the Reason Public Policy Institute, which concluded that IZ was an ineffective and expensive way to provide affordable housing. These studies examined the effects of IZ laws on cities in California and found that the policies produced few units, increased the cost of market-rate homes, and reduced the construction of new homes (Powell and Stringham 2004a, 2004b). These findings, however, were promptly challenged by researchers who criticized the study's methodology and warned against drawing causality, citing the study's data limitations and its weak, nonrigorous design (Basolo and Calavita 2004). Other studies have since found some evidence that IZ laws are correlated with increasing housing prices: studies of laws in California have found that cities with IZ laws had comparatively higher market-rate housing prices (Bento et al. 2009) and had fewer new homes than cities without IZ laws (Means and Stringham 2012).

However, other research has found no negative impact of IZ policies on housing prices or production. One evaluation of the market effects of IZ found that IZ in San Francisco had no statistically significant effect on housing production (Schuetz, Meltzer, and Been 2011). Another study of mandatory IZ policies in California also did not find any statistically significant effects of IZ laws on

housing supply in these cities (Mukhija et al. 2010). These studies appear to contradict some of the research to support preemption and demonstrate that IZ policies may not affect housing supply.

Overall, evidence that IZ laws negatively affect private market prices and development is mixed. The type of impact these laws have appears dependent on the design of the policy, the neighborhood location, and the housing market in the area. For example, a study analyzing the private-market effects of IZ in suburban Boston found that the policies increased prices and decreased housing production when the housing market was strong, but they did not have an effect when the housing market was weak (Schuetz, Meltzer, and Been 2011). Similarly, in the Bay Area, IZ policies appeared to increase housing prices in appreciating markets but lowered prices when the market depreciated (Schuetz, Meltzer, and Been 2011). Different studies have also found mixed effects in the same study areas, such as cities in California. Further, most studies focus on just a few cities and states, limiting broader applicability of their findings. Many researchers acknowledge the lack of rigorous evidence on the effect of IZ policies on the private market and call for additional research into how these laws truly affect home prices and production.

How Effective Is Inclusionary Zoning at Improving Economic Opportunity?

Most research on IZ has focused on its private-market impacts, but a smaller body of work explores its impact on economic opportunity. IZ can increase economic opportunity and equity by reducing rent burdens for low-income residents, building wealth through homeownership, and creating or preserving mixed-income neighborhoods. IZ laws generally target low-income households, though income requirements vary. A study of 185 IZ policies for rental homes found that 37 percent of these programs set a maximum income between 50 and 80 percent of AMI (Thaden and Wang 2017). However, some research has found that IZ does not effectively target very low-income households, especially compared with other affordable-housing programs (Schwartz et al. 2012).

Although most IZ programs involve rental units, programs that develop below-market homes for sale provide low-income families an opportunity to build wealth through homeownership. An analysis of an IZ homeownership program in Maryland found that the program produced 9,561 for-sale affordable condominiums and townhomes since its inception (Dawkins, Jeon, and Knaap 2017). These units also realized significant gains in equity: despite the price controls, IZ units appreciated at a higher rate than similar market-rate units and were more insulated from price declines during the housing crisis (Dawkins, Jeon, and Knaap 2017). This suggests that IZ can increase economic opportunity through access to home equity for low-income households.

The limited literature evaluating IZ policies' effects on integration suggests that they do generally improve economic integration and provide low-income residents access to high-opportunity neighborhoods. A RAND Corporation study found that 76 percent of homes in Boulder, CO; Burlington, CT; Cambridge, MA; Chicago, IL; Davidson, NC; Denver, CO; Fairfax County, VA; Irvine, CA; Montgomery County, MD; Santa Monica, CA; and Santa Fe, NM, developed through IZ were located in low-poverty neighborhoods that had higher rates of employment and college attainment, although this did vary across jurisdictions (Schwartz et al. 2012). However, the level of economic integration appears

to be dependent on location. One study of the spatial distribution of IZ housing in counties in Maryland and New York found different results in the distribution of IZ units for areas studied. Units in Montgomery County, MD, were dispersed more evenly and sited in high-opportunity areas, while units in Suffolk County, NY, were clustered in predominantly low-income and minority neighborhoods (Kontokosta 2015). Part of the explanation could come down to differences in the specific policies—Montgomery County requires that a certain share of units be provided in affluent neighborhoods and strongly encourages on-site provision of inclusionary units. In Burlington, Fairfax County, Montgomery County, and Santa Monica, neighborhoods with IZ units were found to have a lower AMI than neighborhoods without affordable units (Schwartz et al. 2012).

IZ may also increase economic opportunity by providing access to low-poverty schools and improving educational outcomes for children. One study found that elementary schools serving IZ units had lower proportions of students eligible for free or reduced-price meals than schools without IZ homes assigned to them (Schwartz et al. 2012). Additionally, IZ units were mostly located in attendance zones of slightly better-performing schools than schools with no assigned IZ units. IZ can also affect the school performance of children assigned to these low-poverty schools. Another study evaluated the educational outcomes of students benefiting from Montgomery County’s IZ program, which allows the local public housing authority to purchase IZ units and operate them as public housing (Schwartz 2010). The study found that elementary school students in public housing assigned to low-poverty schools performed better in reading and math than students in public housing assigned to moderate-poverty elementary schools. Further, children living in IZ units remained in low-poverty neighborhoods and schools for an average of eight years, providing them residential stability and the benefit of attending low-poverty schools. Although the research to support IZ’s effect on educational opportunity is limited and highly dependent on location, the evidence does appear promising.

How Effective Is Inclusionary Zoning at Reducing Racial Disparities?

IZ has also been discussed as a way to reduce racial disparities by distributing affordable units to residents of color as well as creating more racially integrated communities (Sturtevant 2016). The evidence to support this is limited, though there has been some research on the spatial distribution of affordable units created through IZ. Another study of units built in Montgomery County, MD, and Suffolk County, NY, focused on whether the units contributed to racial integration. It found that on average, tracts where IZ units were built became more racially integrated than neighborhoods without IZ units (Kontokosta 2014). As with economic integration, the level of racial integration differed: In Montgomery County, racial integration increased significantly without a notable decline in the white population. In Suffolk County, the neighborhoods with IZ units had more African American and Hispanic residents than the county average and experienced greater declines in the white population after the IZ policies were implemented.⁸ This may suggest, as the authors note, “a continued pattern of spatial segregation by race,” and it may be based in part on the realities of the social and economic geography of Suffolk County itself, which vary widely.

Research Gaps

Although local IZ laws are growing in popularity, rigorous research on the social and economic effects of IZ laws is still limited, and significant knowledge gaps remain. Most of the extant research focuses on the private housing market effects of these policies, not all the studies use rigorous methods, and their results are mixed. These studies also tend to focus on a small set of jurisdictions whose programs have been in place for a long time, such as cities in California, Maryland, Massachusetts, and New Jersey. Although these states include a large share of the total number of local IZ policies, they may not be representative of IZ laws around the country, which all have different local contexts. Further research should be done on the private-market impacts of IZ in communities nationwide to create a more representative sample.

Market type also plays a large role in the development of IZ: profitable housing markets can make it easier for developers to set aside below-market units. However, slower housing markets may face barriers in implementing IZ policies because of the potential loss of profit. Most research has looked at the impacts of IZ policies in strong housing markets, and research is sparse on the features of local laws designs that may be more effective across market types. Housing advocates have discussed how IZ can be beneficial for communities in soft or mixed housing markets.⁹ But if IZ is to be more widely applicable as a tool to promote affordable housing, additional research must be conducted on how to design IZ policies that work across a range of market types.

Studies need to consider how different features of IZ policies can have different effects in different locations, and they need to evaluate what components of policy design may be driving impacts (both positive and negative) across jurisdictions. Ignoring distinctions in comparative studies may lead to misleading conclusions, because what works in one setting may not work in another.

As discussed, IZ policies are a promising way to encourage economic opportunity by reducing rent burdens for low-income families, although the types of families served are dependent on program design and eligibility. The range of eligible income levels vary by program, but few programs appear to target very and extremely low-income families to the extent that publicly assisted housing programs do (Schwartz et al. 2012). If IZ policies are to reach more families, more research is needed on how to design programs to ensure deeper affordability. Further exploration of eligibility terms can help policymakers and advocates design programs that meet the housing needs of very low-income families not currently served by most IZ policies.

There are also significant gaps in knowledge of how IZ affects racial and economic equity. Although a few studies have discussed the spatial distribution of units built by IZ, rigorous research has not been conducted that supports whether these laws have a direct impact on reducing racial disparities or improving economic outcomes for residents. IZ may also have an impact on other social outcomes such as crime, health, and access to social services, but these outcomes have generally not yet been studied (Mukhija et al. 2015). Further research should be conducted to determine the specific effects that IZ has on improving equity and other social outcomes.

Conclusion

In many communities, IZ has provided affordable housing to low-income families and provided them with more access to economic opportunity. However, concerns of the potential private-market impacts of these laws have led several states to preempt IZ policies. The evidence that IZ increases housing prices or decreases production is mixed, and outcomes can be affected by differences in program design or the housing market. Existing research points to the benefits of IZ and its ability to create affordable housing, encourage integration, and improve equity. As policymakers consider IZ as a tool to increase affordable housing, additional research should be conducted on how to make IZ policies more effective, equitable, and widely applicable.

Notes

- ¹ Benjamin Schneider, “CityLab University: Inclusionary Zoning,” *CityLab*, July 17, 2018, <https://www.citylab.com/equity/2018/07/citylab-university-inclusionary-zoning/565181/>.
- ² Teresa Wiltz, “Once Seen as a Local Issue, Affordable Housing Is Becoming a State Focus,” *Governing*, October 16, 2018, <http://www.governing.com/topics/urban/sl-affordable-housing-state-legislation.html>.
- ³ David Tuller, “Housing and Health: The Role of Inclusionary Zoning,” *Health Affairs*, June 7, 2018, <https://www.healthaffairs.org/doi/10.1377/hpb20180313.668759/full/>.
- ⁴ For background on the Mount Laurel court decisions and subsequent creation of the Council on Affordable Housing, see <http://fairsharehousing.org/mount-laurel-doctrine/>.
- ⁵ Grounded Solutions Network, Inclusionary Housing Database, 2018, <https://gsn.maps.arcgis.com/apps/webappviewer/index.html?id=331f8a985a244e8fb6e6a2ad23731179>
- ⁶ James Brasuell, “Tennessee Legislature Blocks Nashville’s 2016 Inclusionary Zoning Policy,” *Planetizen*, April 2, 2018, <https://www.planetizen.com/news/2018/04/97998-tennessee-legislature-blocks-nashvilles-2016-inclusionary-zoning-policy>.
- ⁷ Jeff Mapes, “Oregon Legislators Reach Deal On Affordable Housing Legislation,” *OPB*, February 23, 2016, <https://www.opb.org/news/article/oregon-legislators-reach-deal-on-affordable-housing-legislation/>.
- ⁸ After significant thought and deliberation, the authors have decided to use the term “Hispanic” to refer to people of Latin American origin living in the United States. We have decided to employ this term to align with the language used by research sources throughout the brief. However, we recognize that the term “Latinx” is more inclusive of way this group may self-identify. We strive to avoid language that is exclusive and will always attempt to explain the editorial rationale behind the labeling of certain groups.
- ⁹ Stephanie Reyes, “Inclusionary Housing in Soft or Mixed Markets,” *ShelterForce*, May 7, 2018, <https://shelterforce.org/2018/05/07/inclusionary-housing-in-soft-or-mixed-markets/>.

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