

INCLUSIONARY HOUSING: A DISCUSSION OF POLICY ISSUES

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Overview of Inclusionary Housing

Inclusionary housing policies promote the production of affordable housing in a local jurisdiction either by requiring that all new housing developments include a percentage of affordable units or by providing incentives to developers for voluntary inclusion of affordable units.

Mandatory inclusionary housing policies usually provide compensating benefits to developers to mitigate the costs of providing affordable units, similar to the incentives provided under a voluntary program. The most common incentives or compensating benefits include density bonuses, expedited permitting, relaxed development requirements, and financial assistance for participating developers.

Inclusionary housing policies have two social objectives: to increase the local supply of affordable housing and to disperse affordable housing units throughout a community in order to avoid pockets of low-income units. At times, these objectives can conflict with each other. Maximum integration of affordable units into higher-income areas will likely result in the production of fewer affordable units; development costs for affordable units are higher in these areas due to increased land costs and possibly the need for higher-grade materials to fit the neighborhood. Conversely, creating the maximum number of affordable housing units possible would likely require scaling back their integration into higher-income areas, as larger affordable housing developments are better able to take advantage of economies of scale. A sound, workable inclusionary housing policy requires a balance between these two objectives.

In practice, inclusionary housing is a land use policy as much as it is an affordable housing regulatory policy. An inclusionary housing policy cannot work solely by expecting the private sector to produce its most common product—single-family, detached homes, often on large lots—at the lower price that low-income families can afford. Instead, requirements or incentives for the inclusion of affordable housing must be coupled with the flexibility to produce lower-cost housing types in conjunction with more

- *Strong local market.* The ideal community for an inclusionary housing policy is one in which developers compete to build and where new housing is assured to sell quickly. If such a community establishes a mandatory inclusionary zoning policy, developers will be more likely to build despite the mandates because the profit potential will remain significant. Incentive programs also are more effective in communities where market-rate units are high-priced and in high demand than in other communities, because incentives such as increased density and expedited permitting will allow developers to build more of these lucrative units more quickly.
- *Uniformity of regulations across the local housing market.* For mandatory inclusionary housing programs to work, nearby communities must share similar regulations. Otherwise, developers can easily escape requirements by building in a nearby jurisdiction, in effect producing the same product without the added costs associated with inclusionary housing.
- *An effective market for affordable units.* Even if a needs assessment reveals that a number of households in a community lack affordable housing, it is not necessarily true that those households can afford even the lower-cost units produced through an inclusionary housing program. Because it does not involve the deep subsidies typical of earlier federal housing programs, inclusionary housing tends to produce units affordable to the higher end of the low-income scale rather than housing for families in poverty. The local government must ensure that effective demand exists for the units that will be produced, either by identifying families with incomes that would allow them to purchase or rent the new affordable housing units or by providing additional financial assistance to allow lower-income families to afford the units.

Elements of an Inclusionary Housing Ordinance

An inclusionary housing ordinance must include the following¹:

¹ A similar list is included in Marc T. Smith, Charles J. Delaney, and Thomas Liou. "Inclusionary Housing Programs: Issues and Outcomes." *Real Estate Law Journal*, Vol. 25, No. 155 (1996), p. 156.

inclusionary housing programs target families at the very low (50 percent of the area median income) and low (80 percent of the area median) income levels; some programs also include units for families with moderate incomes (120 percent of the area median). Housing would be considered affordable at one of these income levels if it cost no more than 30 percent of the family's income for rent or mortgage costs.

The ordinance also should specify the minimum percentage of affordable units in each new development. The minimum percentage usually ranges from 10 to 20 percent of the units.

To reduce further the stigma attached to affordable housing units, some inclusionary housing ordinances also require some measure of comparability between market-rate and affordable units in the same development. An ordinance might require comparable location of each type of units, with affordable units required to be on the same site as market-rate units or even to be scattered throughout the development. The ordinance might require comparable appearance, with affordable units required to contain similar exterior materials and design elements where feasible. Finally, the ordinance might require comparable timing, with affordable units required to be phased in throughout a development to ensure their timely completion.

These requirements for comparability between market-rate and affordable units are not absolutely necessary for a successful inclusionary housing ordinance. Their advantage is that they encourage more complete integration of affordable units into market-rate developments. On the other hand, by placing these requirements in the ordinance, the jurisdiction restricts its flexibility to accommodate projects whose developers wish to fulfill the affordability requirements in a different way.

- *Compensatory benefits (mandatory program), or incentives (voluntary program).* Offering benefits to developers who participate in a mandatory inclusionary housing program or incentives for developers to participate in a voluntary program helps to mitigate the costs of producing housing for below-market purchase price or rent.

While these benefits or incentives are vital to ensuring developer participation in inclusionary housing programs, local governments must be sure that they can afford to make these concessions on a widespread basis, particularly if the inclusionary housing policy will be mandatory. If most new developments are expected to include affordable units, then the increased density, relaxed development requirements, reduced permit fees, and expected financial assistance will constitute a new development regime that will apply to a significant portion of the jurisdiction's future development.

- *Alternative methods of compliance.* In some cases, it may not be feasible to include a percentage of affordable units in the same development as market-rate units. Most mandatory inclusionary housing ordinances offer alternative methods of compliance to address these cases. In practice, these methods of compliance usually call for a greater commitment to producing affordable housing units at the expense of the dispersal of this housing throughout higher-income developments.

One alternative method of compliance is payment of a fee in lieu of including affordable units. The fee would capitalize a housing trust fund that could be used for financial assistance to future inclusionary housing developments or for direct assistance to families needing housing. Because payment of the fee does not fulfill the objective of integrating affordable units into market-rate developments, the fee should not be so low as to give all developers the incentive to pay it rather than to include affordable units in developments. Moreover, since fees in lieu tend to be a popular option, the jurisdiction must have a concrete plan in place to spend the funds collected and must devote adequate staff time to oversee their expenditure. Without this planning and staff commitment in place, some communities with inclusionary housing ordinances have amassed large trust funds without spending them to create affordable housing.

income-qualified buyers, the jurisdiction may wish to assign staff to create a waiting list of eligible buyers.

- *Compliance monitoring and enforcement.* The ordinance should specify the method by which the jurisdiction will monitor compliance with any mandated inclusionary housing policy. Some inclusionary housing ordinances require a written declaration of home price or rent and income ranges as a condition for granting a construction permit. The ordinance might also require initial or ongoing certification of home buyer and tenant income levels.

While this may not be part of the ordinance itself, it is important that jurisdictions assign adequate staff to monitor compliance with inclusionary housing requirements.

Applicability to Alachua County

Alachua County's strong housing market and continued growth offer opportunities to create affordable housing through inclusionary housing. The major challenge in implementing an inclusionary housing policy will be the creation of a meaningful set of incentives or compensating benefits to bring about developer participation. Density bonuses—the primary means by which communities have encouraged inclusionary housing—may not be very meaningful in an area where development already often does not reach allowable densities. Moreover, while the County may reduce or waive permitting costs, the impact of such reductions may be modest in comparison to development costs. The County also must consider carefully whether it can support the loss of revenue caused by permit fee reductions or waivers.

While strongly opposed to a mandatory inclusionary housing policy, developers have offered some suggestions for incentives that might encourage the voluntary inclusion of affordable units:

housing types and flexibility in lot sizes that make affordable housing possible on the other.

Finally, the County should ensure that adequate staff resources are devoted to the long-term implementation and monitoring required for a successful inclusionary housing policy. The County can maximize the policy's chances for success by allocating significant staff time for negotiating inclusionary housing agreements with developers; certifying incomes, rents, and housing prices associated with new affordable units; planning for the use of the housing trust fund generated by fees in lieu of participation; and administering the trust fund and other financial incentives.

eventually can serve as source of housing assistance for families. Initially, however, the County may need to identify additional sources of housing assistance funds.