

Inclusionary Zoning

Inclusionary Zoning Overview

What is it and what does it do?

- **Inclusionary Zoning** (IZ) is a land use tool for the inclusion of below market rate units within a market rate housing project that are designated for low to moderate income individuals
- First developed in the '70s as a response to 'exclusionary' zoning
- Generally part of a larger set of inclusionary housing policies
- Intent is to require or encourage the development of affordable housing units within a new, market-rate development to increase the availability of and access to affordable units in a mixed income environment



Inclusionary Zoning Overview

Inclusionary Zoning Basics

- IZ policies may be mandatory or voluntary
- IZ policies may or may not have incentives
- IZ policies may require the physical development of affordable units within a development or may have a fee in lieu payment option
- IZ policies generally set standards for the number of units that are to meet each AMI category, i.e. below 50% AMI, 50-80% AMI, 80-100% AMI
- Affordability is typically maintained either in perpetuity or for a set period of time through deed restriction or through ordinance



Inclusionary Zoning Overview

Mandatory Inclusionary Zoning

- Mandatory IZ policies require the inclusion of a certain number or percentage of below market rate units as part of a new development
- Requirements can be triggered by a rezone application or can be applied to a certain area for all new development
- The number of units and the price/rent is set based on policies adopted by the City
- May include the option of paying a fee in lieu of building the physical units
- Fees in lieu are then used to build units elsewhere or otherwise assist residents with housing



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Voluntary Inclusionary Zoning

- Works like other incentive zones where a developer gets incentives or bonuses for including affordable housing units within the development
- Incentives work to off-set the cost of including the below market rate units
- Incentives can include things like:
 - Increased density
 - Increased building height
 - Increased floor area ratios (FAR)
 - Reduced parking requirements
 - Reduced fees or expedited permitting/approvals
 - Tax increment or subsidy



Inclusionary Zoning Overview

Prevalence of Inclusionary Zoning Policies

- As of 2017, 886 jurisdictions in 25 states had some form of IZ policy
- Majority of the IZ programs are in Massachusetts, New Jersey and California
- Approximately 80% of the IZ programs were considered mandatory (3 main states have state-level requirements for affordable housing)
- Some states do prohibit IZ policies; Oregon recently repealed their restriction
- Park City, Utah does have an IZ policy in place to address affordability and work force housing



Economics of Inclusionary Zoning

- IZ is often thought of as an easy way for a community to get affordable units with little or no public investment
- No free lunch – IZ units are below market rate units
- Below market rate means that these units are not paying for themselves through purchase prices or rental rates
- How are these units paid for?
- Incentives are designed to make up the difference by allowing costs to be cut or additional market rate units to be built
- Mandatory IZ requirements can level the playing field for all developers, eliminate the need to negotiate for incentives, and may reduce the uncertainty in project development
- Without an off-set, developers, and ultimately buyers/renters, pay the cost



Unintended Consequences

- Some studies suggest that IZ may make housing prices go up
 - If incentives do not off-set the costs, market rate units may be priced higher to make up the difference
 - Since there is a limit on what the market can bear, a developer may choose not to build if IZ policies prove too difficult or too onerous
 - If IZ policies are geographically targeted, development may move to areas where there is no IZ requirement
- Some studies have suggested that IZ policies don't help the lowest income residents
 - Most IZ policies target 50-80% or 80-100% AMI
 - Vouchers and other assistance may not be enough to off-set the costs to developers for residents with an AMI below 50%



Fee in Lieu Payments

- Some programs allow the residential developer to pay a fee in lieu of actually building the affordable units
- Some programs exact a fee from commercial developers to help provide workforce housing
- Fees in lieu allow the City to accumulate funding for the development of a singular affordable housing project or a program designed to help low income residents



Fee in Lieu Payments

- Benefits of a fee in lieu payment include:
 - More local control over what is built
 - Larger pool of money from which to work
 - Known costs for the developer; no negotiation or delay with approvals
- Drawbacks of a fee in lieu payment include:
 - More segregated housing if not integrated into new development
 - Residents may not have access to the same amenities they might with mixed income housing
 - Additional work for the city or non-profit in administering/developing the program



Does Inclusionary Zoning Work?

- Studies are generally mixed on whether IZ programs work as they are intended
- Some studies show that there is no appreciable impact on housing prices
- Other studies do show some impact on overall housing prices
- Studies show that the number of units created with IZ policies is too small to have much of an impact on the housing affordability problem
- Other studies show that the people who benefit from IZ policies do see improvements in their access to resources and their financial position
- **The best answer we have to the question is: it depends**



Where Does Inclusionary Zoning Work Best?

- Voluntary IZ seems to work best in stronger markets with higher land values and increasing housing prices
- Low base zoning is important in making incentives attractive
- Mandatory requirements seem to work if the area is growing and is large enough to prevent development from moving to other areas
- IZ policies need to be clear and easily understood
- IZ policies are very market-specific and must be crafted with local conditions in mind



Inclusionary Zoning Considerations

- What is the need?
- What is the goal?
- What is the right approach: voluntary or mandatory
- Is there a geographic target or is it city-wide?
- How is affordability maintained?
- How is the program administered?
- What are the right incentives that would entice a developer to participate?



What About Ogden?

- Is our market strong enough to have a voluntary IZ policy?
- Would our current zoning allow for adequate incentives?
- Can we mandate an IZ policy?
- The City already subsidizes much of the development; would we be adding a requirement that we would have to pay for ourselves in the end?
- How many units are we anticipating over the next 10 to 20 years?
- How many of those could be included in an IZ policy?
- Would an IZ policy push development away from Ogden?



Questions

