POLICY BRIEF

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Inclusionary Zoning: Is it Right for Florida?

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Policymakers in Florida and the nation continuously seek ways to mute the effects of skyrocketing housing prices. According to the federal Office of Housing Enterprise Oversight, Florida absorbed prices index increases averaging over 19 percent in each quarter of 2004 and more than 23 percent in the first two quarters of 2005. By contrast, neighboring states Alabama and Georgia absorbed only single-digit increases in those periods. Hence the housing price crunch is particularly acute in Florida, which hosts 10 of the nation's 20 fastest increasing house price markets. One problem that is especially exacerbated with rapidly rising prices is that there is an acute shortage of affordable housing, and policymakers at all levels of government are seeking remedies to this problem.

Inclusionary Zoning

One policy that is being discussed widely is inclusionary zoning. The fundamental purpose of inclusionary zoning programs is to allow the development of affordable housing to become an integral part of other development taking place in a community. At the local level, this is accomplished by zoning ordinance, mandatory conditions or voluntary objectives for the inclusion of below-market housing in future market-level developments. Incentives designed to facilitate the achievement of these conditions or objectives are often included.

A typical inclusionary zoning ordinance will set forth a minimum percentage of units to be provided in a specific residential development affordable to households at a particular income level, generally defined as a percentage of the median income of the area. The share of units allocated to such households is termed a "mandatory set-aside." The goal of such a process is to establish a relatively permanent stock of affordable housing units provided by the private market. This stock of affordable housing units is often maintained for 10 to 20 years or longer through a variety of "affordability controls". Often these are ownership units that do not require a great deal of community administration, except for the income qualification of successive occupants.

In many ordinances, some form of incentive is provided by the county or municipality to the developer in return for the provision of affordable housing. These incentives can take the form of waivers of zoning requirements, including density, area, height, open space, use or other provisions; local tax abatements; waiver of permit fees or land dedication; fewer required developer-provided amenities and acquisitions of property; "fast track" permitting; and/or the subsidization or provision of infrastructure for the developer by the jurisdiction.

The Case for Inclusionary Zoning

Inclusionary zoning programs are the mirror image of exclusionary zoning ordinances. They originate in areas where exclusionary zoning is visibly present or where housing costs are overly high despite more liberal zoning practices. Thus, it is not surprising that inclusionary zoning took root in the Washington, D.C. metropolitan area, in California, and in the New York metropolitan area (including New Jersey). Even though no definitive source or comprehensive national survey of inclusionary zoning efforts exists, the literature indicates that there are 50 to 100 jurisdictions nationally that employ some variant of these programs.

Advocates of inclusionary zoning argue that this regulatory tool creates economically diverse communities and allows local governments to create more heterogeneous communities at little or no direct financial cost. Generally, the provision of affordable housing units as part of an inclusionary program does not require significant expenditure of public funds. Inclusionary units are delivered in step with market units through incentives to developers such as density bonuses, fee waivers and/or local tax abatements offered by the local jurisdiction. Inclusionary zoning relies on a strong residential market to create below-market units. This type of program reached its zenith in the 10-year period from 1975 to 1985. During this time, market housing was built in record numbers, and a share of this housing was allocated to lower-income households.

The affordable housing enabled by inclusionary programs is not produced as an "island" of the poor but rather is integrated into the development of the overall community in lockstep with market-rate units. The integration of a percentage of low- and moderate-income housing units into market-rate housing developments thus avoids the problems of overconcentration, ghettoization and stigmatization generally associated with solely provided and isolated affordable housing effort. Inclusionary programs make possible the integration of populations that traditional zoning segregates—young families, retired and elderly households, single adults, female/male heads of households, minority persons and households of all types.

Suburban and exurban employers further benefit from the presence of this proximate low- and moderate-income work force. The oft-cited spatial mismatch between available suburban jobs and employment-seeking urban households is significantly reduced by inclusionary zoning.

From a regional perspective, density bonuses often make possible residential environments of a variety of housing types.

They enable developments to be built more densely than those of primarily single-family zones, which helps to reduce the sprawl that would otherwise be created by single-purpose residential zones. A large development containing inclusionary zoning often allows for mixed-use and transit-oriented development, while protecting surrounding open spaces.

The Case Against Inclusionary Zoning

Critics claim that inclusionary zoning changes the financial characteristics of real estate developments and reduces the saleable value of the development upon completion. They equate inclusionary zoning mandates with a tax on new development—especially when there are no compensating benefits provided to developers to cover the full cost of providing affordable housing. Opponents of inclusionary programs assert that developers cannot make money on affordable housing and thus are saddled with the burden of economically integrating neighborhoods that have been demographically homogeneous for decades. Developers become scapegoats for problems beyond their control but quickly pass this burden onto the new occupants of the housing that they develop.

Who pays for inclusionary zoning? The requirement of subsidized housing has the same effect as a development tax. The developer makes zero economic profit with or without inclusionary zoning, so the implicit tax is passed on to consumers (housing price increases) and landowners (the price of vacant land decreases). In other words, housing consumers and landowners pay for inclusionary zoning. Another deficiency of the inclusionary zoning strategy is that it is based on a market-supply equation that relies primarily upon a developer► s ability to sell market-level units—as an example, eight market units for every two affordable units produced. This reliance on the private sector to finance affordable housing based on the sale of market units is not necessarily a major issue when the economy flourishes, but it is a very serious one when the economy falters. Finally, "shift" criticisms of inclusionary zoning have become focused on the very structure of the inclusionary zoning technique. Inclusionary programs that are mandated without compensation were challenged constitutionally in the 1990s as a taking.

A lingering criticism of inclusionary zoning is that it "distills" the most upwardly mobile poor from central neighborhoods and artificially transports the citizens who could do the most for reviving central city neighborhoods to the suburbs. The "best" of the poor are enticed outward by a write-down on the cost of housing there. While this is certainly a valid concern, and the more economically mobile residents may move out, leaving the less mobile behind, such is the nature of residential choice; it has existed in housing markets since time immemorial. Similarly, in-kind housing subsidies are non-transportable devices that may not significantly improve the welfare of recipient families. These programs may provide individual economic benefits that are difficult to "cash out." For example, affordable housing units usually carry with them affordability controls that typically limit the sales price increase on such housing to a small multiple of the rate of inflation. In instances where density bonuses are provided as part of the inclusionary solution, criticisms about "massing" have emerged. Some argue that increased density represents an unwanted and unplanned-for glut of development that burdens both the overall environment and the public service capacity of local governments.

Will it Work in Florida?

It is unlikely that an inclusionary zoning policy would succeed in most Florida communities. Inclusionary zoning succeeds where it is supported by organized groups, as it requires longstanding attention and focus to affect the distribution of housing. Local politics in Florida are fluid, reflecting the rapid population changes that occur in the state, making it difficult to sustain long-term organizations as are needed to maintain pressure for inclusionary zoning. By contrast, forces opposing the policy are well established and able to mobilize. In addition, the policy is most successful where growth rates are mild, as the market pressures that exist in areas with rapid growth, along with attendant pressures on local and state governments, render the policy difficult to enforce. Thus Florida may prove to be an especially inhospitable environment for the policy, due largely to the massive population shifts that occur regularly in the state and to the exceptionally rapid growth in housing prices that have existed in most of the past decade.

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