NATIONAL APARTMENT ASSOCIATION

ISSUE FACT SHEET

Mandatory Inclusionary Zoning

Adopted by over 500 localities across the country, inclusionary zoning policies typically fall into two categories: voluntary measures that encourage the development of affordable housing, or mandatory programs that stipulate a percentage of units be set aside and fixed with below market rents as a condition of approval for new development. Increasingly, the latter is being used by state and local governments to grow affordable housing in communities experiencing high rates of growth. While well-intentioned, these policies result in the opposite outcome of its intended aim. Inclusionary zoning is a form of rent control that stymies development and leads to overall price increases.[1][2]

Often, cities will allow for in-lieu fees as an option for developers to satisfy their inclusionary housing requirement. In-lieu fees are exactions that municipalities require from builders in the event the developers do not include below-market rate housing in the apartment development. These fees are often paid to a city's affordable housing fund. The structure of the fees leads to a reduction in housing construction which causes housing prices to rise.[3]

Affordable housing mandates act as a tax on housing construction, which increases building costs and reduces housing supply.[4] While many jurisdictions will provide density bonuses (relaxed height restrictions on development), or a streamlined permitting process as "incentives" to developers to offset the costs associated with the mandate, these "incentives" are rarely substantial enough to eliminate the costs imposed by the set-aside requirements.[5] Developers do not absorb these costs; they raise rents for market rate units to balance the reduced revenue from the affordable units required.[6][7]

Inclusionary zoning is not the panacea that its proponents claim, rather it's been shown in practice to generate little in the way of affordable housing.[8] Moreover, it's been shown that such policies create a leapfrog effect in housing construction, which causes developers to focus instead on projects in jurisdictions that lack such requirements.[9]

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[1] Debbie Bassert, NAHB, *Inclusionary Zoning Primer*
[2] Tom Means, The Independent Institute, *Below-Market Housing Mandates as Takings: Measuring their Impact*
[3] Ed Glaeser, New York Times, *Ease Housing Regulations to Increase Supply*: https://www.nytimes.com/roomfordebate/2013/10/16/housing-thats-not-a-luxury/ease-housing-regulation-to-increase-supply
[4] Ed Glaeser, New York Times, *Ease Housing Regulations to Increase Supply*: https://www.nytimes.com/roomfordebate/2013/10/16/housing-thats-not-a-luxury/ease-housing-regulation-to-increase-supply
[5] Ben Powell, Florida State University Law Review, *The Economics of Inclusionary Zoning Reclaimed: How Effective are Price Controls*
[6] Debbie Bassert, NAHB, *Inclusionary Zoning Primer*
[7] Tom Means, The Independent Institute, *Below-Market Housing Mandates as Takings: Measuring their Impact*
[8] Kerry Vandell, University of Wisconsin-Madison, *Inclusionary Zoning: Myths and Realities*
[9] Kerry Vandell, University of Wisconsin-Madison, *Inclusionary Zoning: Myths and Realities*

A growing number of state legislators recognize that mandatory inclusionary zoning is counterproductive to achieve affordable housing and prohibit municipalities from imposing set-aside requirements as a condition of development.

NAA urges policymakers to consider alternative approaches that have been proven to effectively tackle shortages of affordable housing, such as providing direct rental assistance to low-income individuals, and enacting policies that streamline, incentivize, and reduce impediments to development.

NAA Viewpoint

Mandatory inclusionary zoning distorts the housing market by acting as a deterrent and disincentive to develop rental housing. While the intent is to generate affordable housing, these mandates increase costs for consumers overall.