

Preserving, Protecting, and Expanding Affordable Housing

A Policy Toolkit for Public Health



ACKNOWLEDGMENTS

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Preface



ChangeLab Solutions is committed to promoting the common good by developing laws and policies that link all aspects of community life — housing, transportation, education, retail, jobs, and economic development — to better health for all.

We feel honored to work with leaders in every state in the nation to build their capacity to prevent chronic diseases through the tools of law and policy. We have had a front row seat as cities and states adopted new policies that allow farmers' markets to flourish, create play spaces, provide safe streets for walking and biking, expand public transit, develop walkable mixed-use communities, and ensure smokefree public places. These and other strategies offer much promise for supporting healthier communities.

There is a lot to celebrate as public health advocates continue to find new ways to use policy to improve the places where people live, work, and play. Yet, we note that many of the communities that have benefitted from such policies have become less affordable. Growth in median rental prices in cities across the country far outpace growth in median incomes, and the cost of decent rental housing has become too high for average families to afford. At a time when wage growth remains stagnant and housing costs climb, without strategic action, low- and moderate-income residents could be priced out of the neighborhoods in which they grew up and want to stay.

So, as we applaud the expansion of full-service grocery stores into former food deserts, we must ensure the beneficiaries of these investments are the people who have lived for years without access to healthy food. As we encourage the transformation of abandoned land into greenways, playgrounds, and gardens, we must also ensure the improvements are accessible to those who can't afford a gym membership. As we work to enforce building codes that regulate the quality of rental units, we must ensure those rental units remain affordable for low- and moderate-income families.

In short, let's guarantee that strategies used to create healthy places benefit all community residents — especially those with the fewest resources. *Preserving, Protecting, and Expanding Affordable Housing: A Policy Toolkit for Public Health* is designed to further that goal. It provides public health practitioners, along with their allies in public agencies, community organizations, and the private development community, with the tools and strategies needed to preserve and promote safe and affordable housing for low- and moderate-income renters. In the face of increased demand fueled by changing demographics, private and public investment, and other factors, housing must be on the agenda of all of us who envision a healthier future for all.

A handwritten signature in black ink, appearing to read 'Marice Ashe'.

Marice Ashe, JD, MPH
Founder & CEO
ChangeLab Solutions

Introduction

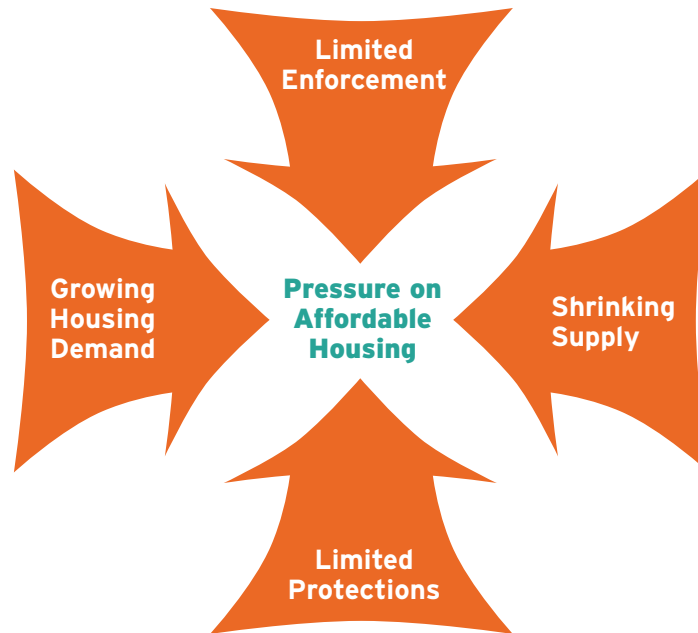
In many parts of the United States, there is a growing interest in urban living. In a sizable number of cities where populations were declining or stagnant, the population has begun growing again, leading to increased property taxes and private investment.¹

Stable, affordable housing is central to the health of individuals, families, and communities.

However, many of these new urban residents have higher incomes than existing residents, creating competition for a limited supply of housing, and contributing to rising rents and home prices.² Growing demand for housing in many urban areas has led to rising housing costs in neighborhoods that have historically been affordable to low- and moderate-income individuals and families. When growing demand or new investment results in rising property values, the number of affordable housing options may decline dramatically.³ Rising housing costs undermine equitable access to neighborhoods offering health and quality of life benefits such as safety, walkability, open space, and healthy food, which are often enhanced by the growing demand for housing and associated development. Many residents may also see neighborhood changes leading to the erosion of the cultural fabric, social networks, and economic opportunities.

This is a health problem as well as a housing problem. Stable, affordable housing is central to the health of individuals, families, and communities. It is well known that poor quality housing that exposes occupants to mold, pests, and/or chemical toxins is harmful to human health. Yet the health effects of housing go far beyond quality alone. Current evidence shows that lack of affordable housing is detrimental to the mental health of people living in low- to moderate-income households⁴ and housing insecurity and hypermobility is associated with poor health outcomes, particularly for children and adolescents.⁵ Affordable housing leaves families and individuals with more money to spend on necessities, such as health care and nutritious food, and provides emotional and mental health benefits from greater stability and reduced stress.⁶

Location is also a key element. The location of someone's home is a major determinant of whether they have access to good jobs, a quality education, and a robust social network. A lack of affordable housing drives lengthy and costly commutes, a scarcity of work and educational opportunities, and social isolation. Although the body of research linking housing and health is still growing, researchers have also found that access to quality affordable housing in well-resourced neighborhoods has led to reduced chronic and infectious disease rates.⁶



When low-income renters have access to a wide array of housing options, they have greater freedom and flexibility to make the best decisions for their families. If renters must move, access to affordable rental housing throughout a city or region provides those renters with more control over where they can live. Strong rental protections give renters more control over whether and when to move, helping them make planned moves that benefit their families. Self-determination is important to all people, but an increased sense of agency has been shown to be especially important to the health and well-being of people struggling to make ends meet.⁷

The economic recession and fragile recovery, coupled with the collapse of the housing market and the foreclosure crisis, have undermined housing stability for millions of Americans. Between September 2008 and May 2013, approximately 4.4 million foreclosures were completed, while the number of households spending more than half their income on rent rose from 19 percent to 27 percent between 2000 and 2010.^{8,3*}

Residents who can't afford to stay in their homes and neighborhoods – or may be at risk of eviction – face a process generally referred to as displacement. The negative social and health consequences of displacement include a disruption of social networks, risk of living in overcrowded conditions, extremely long commutes, and even homelessness.^{9,10,11} According to the Centers for Disease Control and Prevention, displacement exacerbates existing health inequities;^{**}

* "Housing cost burdens are nearly ubiquitous among lowest income renters. An astounding 83 percent of renters with incomes of less than \$15,000 were housing cost burdened in 2011, including a dismal 71 percent with severe burdens."³

** The CDC defines health equity, health disparities, and health inequities in the following ways:

"Health Equity is attainment of the highest level of health for all people. Achieving health equity requires valuing everyone equally with focused and ongoing societal efforts to address avoidable inequalities, historical and contemporary injustices, and the elimination of health... disparities."⁹⁴

"Health disparities are differences in health outcomes and their determinants between segments of the population, as defined by social, demographic, environmental, and geographic attributes."⁹⁴ Health inequities are measurable differences in "health associated with individual or group specific attributes (e.g. income, education, or race/ethnicity)" and "that are modifiable, associated with social disadvantage, and considered ethically unfair."⁹⁴

disproportionately affecting low-income people, women, children, communities of color, and the elderly.¹¹ In many communities, displacement may occur from a combination of factors, such as: increased rental prices, a lack of protective renter policies or effective enforcement mechanisms, and redevelopment efforts that lack proper safeguards to ensure affordable housing is retained or built.*

The phenomenon of displacement presents a dilemma for health practitioners and advocates who have worked to bring new health-promoting investment – from new grocery stores to expanded parks and transit – into neglected neighborhoods. These same investments contribute to increased property values, potentially pricing out low- and moderate-income families. This phenomenon can be seen in studies that find a paradoxical relationship between increased investment in public transit and increased rates of car ownership.¹² Underlying this relationship is the influence transit investments have on raising property values in surrounding neighborhoods.¹² As neighborhood housing costs rise, renters and low-income residents (the traditional core users of public transportation) are priced out. At the same time, incoming higher-income households more often have higher rates of car ownership, making them less likely to use public transit.¹² In this case, not only has the public investment failed to benefit those who need it the most, it has contributed to neighborhood changes that may undermine transit's long-term viability.

The bundle of benefits that new investment promises may bypass low- and moderate-income households or disrupt elements of the neighborhood that are a source of pride and well-being.

Any single investment or infrastructure improvement is likely not responsible for widespread displacement. But when investments occur in tandem with other forces, such as an expansion of high-paying jobs in the surrounding region, a growing preference for particular neighborhoods by affluent households, limited renter protections or a slowdown in home building, rents and home prices can spike, leading to a dearth of affordable options.

To ensure that all households, regardless of income level, reap the benefits of safer, healthier urban neighborhoods, practitioners and advocates should work – in partnership with residents – to preserve existing affordable housing, protect renters from rising costs or pressure to move and ensure new development includes affordable options. Without such safeguards, the bundle of benefits that new investment promises may bypass low- and moderate-income households or disrupt elements of the neighborhood that are a source of pride and well-being.¹³

Practitioners and community advocates working at the intersection of housing and health have a unique role to play, both in guaranteeing quality affordable housing remains available for people of all incomes, and in making sure new investments in neighborhoods contribute to a healthy environment. To support those efforts, this guide includes the following:

➤ **What's the Connection? Rising Rents, Neighborhood Change, and Health**

An overview of how renewed interest in urban centers is affecting housing affordability.

* Limited enforcement mechanisms can lead to landlords illegally threatening or evicting tenants or stopping maintenance on their homes.^{95–97} A study conducted by the Boston Bar Association found that households with legal representation in eviction hearings were more likely to stay in their homes than those without representation. Households who did have to move were more likely to move on their own timetable and terms with representation.⁹⁸

› **How Do Rising Housing Costs Affect Health?**

A summary of the research linking rising housing costs to poor health outcomes.

› **What's the Strategy?**

A set of key recommendations communities should consider as part of an overall approach to preserving, protecting, and enhancing affordable housing.

› **Policy Toolkit**

A library of local housing policies and strategies that communities can use to ensure the availability of affordable housing options, with a particular focus on rental affordability. The toolkit identifies strategies across six policy areas to help ensure that households of all incomes can continue to find affordable housing in high-demand neighborhoods: preservation, protection, inclusion, revenue generation, incentives, and property acquisition.

For those new to the world of housing policy, we've included a primer as an appendix to this document. In the primer, we answer three key questions: What is "affordable housing"? What are the different types of affordable housing? How is affordable housing funded?

We have also developed a compendium to this guide toolkit, *Preserving, Protecting, and Expanding Affordable Housing: An Overview for Local Health Departments*, that specifically describes actions local health departments can take to prevent displacement and encourage the adoption and implementation of affordable housing policies.

NOTE: The strategies covered in this guide specifically address how local government agencies can expand affordable housing options in neighborhoods or cities where affordable options are diminishing. We do not address strategies to improve weak housing markets and housing quality.

What's the Connection?

Rising rents, demographic change, and health

Renewed interest in urban living has put mounting pressure on the rental market in many cities. Higher-income households moving into cities contribute to higher rents as their ability and willingness to pay more for housing “bids up” rent levels.¹⁴

Research by the Federal Reserve Bank of Cleveland found a sizable number of large cities that showed signs of higher-income households moving into formerly low-income neighborhoods during the 2000s.¹⁵ Although this trend is most pronounced in large, traditionally high-cost cities with scarce land available for new residential development, it is not confined to the “usual suspects.” As one researcher put it, “Skyrocketing housing costs aren’t limited to well-documented cities like New York, San Francisco, and Los Angeles. [They occur in places] like Salt Lake City, Utah where housing costs have risen as much as 98.7 percent in the last decade.”¹⁶

Renewed interest in living in central cities, and policies designed to stimulate public and private urban investment, can be a double-edged sword. Redevelopment contributes to the revitalization of older, deteriorated buildings and rising property taxes, helping to shore up city finances. Transit-oriented development and other infrastructure investments provide health-promoting amenities and access to jobs and services. A growing demand for urban lifestyles brings new residents to city centers, which may also contribute to increased diversity of incomes, races, and ethnicities. However, without proper protections for existing renters and/or an expansion of the affordable housing stock, the accompanying rent and property value increases may price out longtime residents, amplify patterns of residential segregation or residential instability, and make it difficult or impossible for low- and moderate-income households to afford to move there.^{3,17} This, in turn, threatens to deprive low- and moderate-income residents of the health, educational, and quality of life benefits of living in reinvested neighborhoods and undermines the full potential of these neighborhood changes to enhance diversity.

This phenomenon adds a layer of complexity for practitioners and advocates working to promote investment in traditionally low- and moderate-income neighborhoods. Policies that create more parks¹⁸ and recreational areas,¹⁹ increase tree canopies,²⁰ expand access to community gardens,²¹ and increase access to public transit²² – features that many practitioners and advocates have encouraged



A broad coalition of practitioners and advocates is necessary to ensure that low- and moderate-income households can afford to live in neighborhoods.

in many communities – have also been shown to increase the value of properties in the surrounding area. When these neighborhood enhancements are accompanied by increases in rents and home prices, the very people that stand to benefit most from the improvements may be denied the opportunity to enjoy them. In fact, such policies may ultimately exacerbate health inequities as low- and moderate-income households are forced to find alternative housing arrangements. In some cases, priced-out families and individuals are forced to move to remote locations far from job centers and public transportation access.²³

In order for everyone to have equitable access to the benefits brought by neighborhood improvements, communities should adopt policies that: a) preserve and expand affordable housing across all neighborhoods and b) reserve a share of new development for affordable housing. Given the many political complexities of housing policy, a broad coalition of practitioners and advocates is necessary to ensure that low- and moderate-income households can afford to live in neighborhoods seeing an influx of higher-income households or where new investment is taking place.

With the right policies in place, many urban neighborhoods can accommodate an influx of higher-income households while still providing affordable living opportunities for low- and moderate-income households. This policy guide aspires to create the win-win scenario of a healthy and sustainable neighborhood accessible to households of all incomes.

* For further discussion on gentrification and displacement, see *The Gentrification Debates* by Japonica Brown-Saracino.⁹⁹

Gentrification, Displacement, and the Dynamics of Neighborhood Change

Changes in neighborhood demographics are often controversial. In some urban communities, advocates fight against gentrification – a term generally meaning the displacement of existing residents by higher-income households. Concerns about gentrification often have racial or cultural dimensions. In communities with longstanding African-American, Latino, Native American, or Asian populations, for example, residents may fear or experience the loss of important businesses and institutions, and the erosion of the cultural fabric and social networks within their neighborhood.

Researchers note that “even when development brings in much needed resources, the benefits of new services and resources can be out of reach for those who need them the most due to financial and cultural barriers. New retail stores and restaurants may

be unaffordable and/or based on the cultural tastes and preferences of new rather than longtime residents. When development is not based on the needs and desires of existing residents, it may be experienced as alienating and exclusive, resulting in longtime residents feeling out of place in their own neighborhood.”^{24,25} While often discussed through the lens of race and class, demographic change can also mean the loss of businesses and institutions that serve people across a spectrum of identities.

For instance, in 2014, when three longtime queer spaces announced their closure in San Francisco, one owner identified changing demographics as a major factor, noting, “When a business caters to about 5% of the population, it has tremendous impact when 1% of them leave. When 3% or 4% of them can no longer afford to live in the neighborhood, or the City, it makes the business model unsustainable.”²⁶

How gentrification and displacement work, where the processes happen, who benefits, and what should be done are

fiercely debated topics among organizations, the popular press, and across several academic fields.

The many facets of gentrification and displacement are worthy of rich discussion and thoughtful deliberation.* The body of research that informs those debates outlines a number of methods for assessing residential mobility patterns, gentrification, and displacement. Understanding these methods may be valuable in analyzing particular patterns in a city or region. This paper, however, does not unpack that body of research. The questions we set out to address are:

- From a public policy perspective, what are the strategies to ensure low- and moderate-income rental households have meaningful and affordable opportunities to stay in or move to neighborhoods experiencing rising rents?
- Which public policies give residents in these neighborhoods greater control over when and under what circumstances they wish to move?

How Do Rising Housing Costs Affect Health?

Rising housing costs can affect health in a number of ways. As the Joint Center for Housing Studies notes, “The lack of low-cost housing options undermines quality of life for these families, forcing difficult tradeoffs in both housing quality and spending on other vital needs.”³

In areas without sufficient affordable housing, people utilize a variety of strategies in response to rising rents. These strategies include: remaining in their current housing but paying higher rents; finding other affordable housing options; consolidating homes with other people;⁹ moving multiple times;²⁷ moving to less safe neighborhoods; moving far away; losing their housing entirely; losing social networks; and forgoing necessary health care. Housing cost pressures amplify the need to employ such strategies, and each of these strategies can have a negative impact on health.

The prior section reviews the health and equity challenges associated with the loss of access to neighborhoods providing healthy amenities, such as walkability and green space. This section reviews the health challenges associated with other choices that households may make when faced with rising housing costs.



Remaining in Current Housing and Cutting Back on Critical Necessities

Individuals and families on limited or fixed incomes may be able to remain in their current housing when the rent goes up. However, even if they are able to stay, they may face serious strains and be forced to cut back on other necessities, such as health care and food. Research has found that families that have reported trouble paying for housing or utilities are 84 percent more likely to report that they have delayed necessary medical care and 116 percent more likely to report having postponed the purchase of needed medications.²⁸ More than three-quarters of individuals experiencing housing insecurity also reported food insecurity.²⁸ Families that spend more than 30 percent of their income on rent also suffer other adverse health effects, such as reduced cognitive development in youth.²⁹



Consolidating Housing with Other Households

Surveys have found that more than one in ten people who have had difficulty paying rent or utilities in the prior year will consolidate homes with others and end up in overcrowded conditions.²⁸ Research shows that in areas where incomes are rising and vacancy rates are low, individuals who lack a high school degree are more likely to consolidate their housing and end up in overcrowded conditions.⁹ In 2012, nearly 7.5 million people lived in overcrowded conditions, which are associated with a number of adverse health effects, including respiratory diseases, poor mental health, elevated stress levels, increased rates of infectious disease, and high blood pressure.^{5,10,27}



Moving to Poor Quality Housing

As rents rise and affordable housing options disappear, the difficulty of finding alternative housing intensifies. With limited budgets and numerous necessities to pay for, such as food and clothing, low-income populations are more likely to select lower quality housing they can afford.³⁰ As a consequence, low-income families and individuals are more likely to live in housing with rodents, mold, and/or structural problems.³⁰

Substandard and deficient rental housing jeopardize the health, safety, and welfare of residents. Substandard housing conditions pose an especially acute risk to young children, who are highly susceptible to lead poisoning and asthma attacks brought on by mold and other airborne irritants. In fact, an estimated 39 percent of asthma cases in children under age six can be traced to residential exposure to indoor air hazards.³¹ Exposure to lead paint chips and related dust are the leading cause of elevated lead levels in American children. Exposure to lead paint can “severely damage the brain and kidneys in adults or children and ultimately cause death.”³² Four million emergency room visits and 70,000 hospital admissions each year are the result of housing-related injuries.³³ Seniors also face a particularly high risk.^{34,31,35}

Increasing the availability of housing that is both affordable and of good quality reduces the need for low-income populations to choose between the two. Communities may also combine their work on housing affordability with proactive code enforcement, thereby ensuring that the available low-income housing on the private market is safe and healthy.*



Moving Multiple Times

To find stable housing, individuals and families may move multiple times. This exacerbates negative health outcomes in many ways.³⁶ Research suggests that people who have residential instability suffer greater stress levels and poorer health outcomes.^{6,37} For example, it is harder for frequent movers to maintain a medical home,** which can translate to delayed and inconsistent medical care.²⁷

* For more information about proactive code inspection, see ChangeLab Solutions. 2014. “[Healthy Housing through Proactive Rental Inspection Summary and Guide](#).”

** A medical home is a model where patient treatment is coordinated through their primary care physician to ensure they receive the necessary care when and where they need it, in a manner they can understand.¹⁰⁰

Additionally, according to researchers, when families move frequently, “children are at an increased risk for mental health and behavioral problems, substance abuse, teen pregnancy, lower global health ratings in adulthood, and poor school performance.”^{27,5}



Moving to Less Safe Neighborhoods or Farther Away

Another option for residents who can no longer afford to live in their neighborhood is to move to neighborhoods that are less safe. Studies show that families unable to find affordable housing are more likely to relocate in neighborhoods with higher crime rates, more blight, and greater risk of exposure to allergens, toxins, and other unsafe elements.³⁰ Neighborhoods with blight are associated with higher rates of infectious disease,³⁸ cancer, diabetes, homicide, and suicide.³⁹ Residents may need to move away from their neighborhood altogether. If they remain in the region, they may endure longer commutes and spend more money on transportation costs or move to areas with limited access to public transit, or bicycle or pedestrian paths.¹¹



Losing Housing Entirely

Individuals and families who are struggling under the burden of housing costs are more likely to experience homelessness. In America, the homelessness rate is an estimated 19 per 10,000.¹⁰ More than a third of people experiencing homelessness are in families, and nearly 8 percent are youth.¹⁰ The health effects of loss of housing are substantial⁴⁰ and include chronic disease, infectious disease, hunger, injuries, stress, violence, disruption of medical and mental health care, and malnutrition.^{41–43}



Losing Social Networks and Social Cohesion

When people are forced to utilize some of the strategies listed above in response to rising rents, social cohesion can decline. Even in economically distressed neighborhoods, a tight-knit community can help to cushion people from some of the harsh consequences of scant resources. However, as neighborhoods evolve and long-term residents move out, the existing residents may lose neighborhood social networks. People feel less connected and less supported, and they may find themselves excluded from the new populations that move in to the neighborhood.⁴⁴ Lack of social cohesion often translates to worse health and poorer mental health outcomes.⁴⁴

What's the Strategy?

Developing a strategy for preserving and expanding the supply of affordable housing in high-demand neighborhoods

Policies that safeguard quality affordable housing in neighborhoods experiencing rising rents should be designed to ensure that low- and moderate-income people can remain in their homes or have greater control over when and where they move.



To those ends, this guide identifies strategies across six policy areas: preservation, protection, inclusion, revenue generation, incentives, and property acquisition. A successful strategy will likely require a well-coordinated plan with multiple policies and/or programs, including policies from each of these six policy areas.

Given the fundamental importance of a cross-cutting strategy that addresses all six of these policy areas and the likelihood that it will take time for these policies to be debated and adopted, it is difficult to say that one area is more urgent than another. However, in communities that are only beginning to see rising rents, where conditions are not yet ripe for new development or redevelopment, it may make sense to begin by focusing on the first two categories: preservation of existing affordable housing and the protection of residents who wish to stay in the neighborhood. The other policies could then be adopted subsequently, as continued property value increases make new development and redevelopment more likely.

In the next section, we provide a toolkit of policy options to help ensure the continued affordability of housing in neighborhoods experiencing rising rents. Before turning to these specific policies, we review a number of key recommendations that are important to consider in developing an overall strategy.

Preservation of existing affordable housing and the protection of residents who wish to stay in the neighborhood are keys areas to focus on.

Affordable Housing Primer

Our *Affordable Housing Primer*, included as an appendix to this volume, addresses some of the basic threshold issues involved in developing an affordable housing strategy, and covers the following topics:

- › What is affordable housing and who needs it?
- › What are the different types of affordable housing?
- › How is affordable housing funded?

We recommend you review this primer if you need a concise introduction to affordable housing.



Start Now

The longer a community waits to develop and implement a comprehensive strategy to maintain affordable housing in high-demand neighborhoods, the more difficult and expensive it will be to acquire attractive sites for new development or rehabilitation. In some cases, the higher-income households that move into a changing neighborhood also become the strongest critics of new development, and may be particularly opposed to increasing density or developing affordable housing, further underscoring the importance of early and comprehensive planning. It often takes several years to put a strategy in place and begin creating affordable units, so it's best to start early.



Build Community Support

Community opposition can prevent affordable housing development or rehabilitation projects from taking place. To facilitate the preservation and expansion of affordable housing, public agencies and private developers should work proactively with residents to build trusting relationships and to ensure that plans and policies are responsive to residents' needs and concerns.⁴⁵



Explore Both Targeted and Citywide Policies

Many of the strategies discussed in this guide can be employed either in specific neighborhoods or citywide. Communities need to decide which approach to take. Targeted policies can be more effective than broader citywide policies when public resources are limited, but may give rise to political disputes between residents of neighborhoods to which resources are being devoted and representatives of other parts of the community. In practice, many communities will end up with a combination of targeted and citywide policies.



Strive for Long-Term Affordability

Many affordable housing strategies focus on creating housing that is affordable at the outset, or for a period of ten to 15 years, but do not consider what happens to housing prices or rents after that. This will provide only short-term relief, as rents will rise dramatically as soon as the affordability period expires. For this reason, it's essential from the very beginning to focus on creating housing that remains affordable for the longest time possible. There are a number of ways to maintain long-term affordability, including long-term covenants, which safeguard affordability well beyond the usual 15-year watermark; nonprofit ownership that maintains the long-term affordability of rental units; and shared equity homeownership, which ensures the continued affordability of owner-occupied homes. Well-designed policies can sustain affordability for 50 years or longer – ideally, perpetually – ensuring the continued availability of affordable housing in neighborhoods even after unsubsidized housing becomes unaffordable.



Increase Density

Increasing the density of a neighborhood is one way to accommodate new households without displacing long-term residents. It's an essential part of a citywide housing policy for high-cost cities. By itself, however, a policy of increasing density in a high-demand neighborhood rarely produces enough housing to substantially lower average housing costs in that neighborhood and will not produce housing affordable to households with the very lowest incomes. Such a policy can also be problematic if it accelerates the process of investment and neighborhood change before a holistic affordability strategy is in place. The solution is to combine increased density with a comprehensive affordability housing strategy. Policies such as inclusionary zoning and housing trust funds depend on new development to provide units and funding for affordable housing. However, increasing density alone is often not enough to maintain affordability.



Reduce Barriers to Development

As part of a comprehensive affordable housing strategy, communities should consider reforming their planning process to reduce barriers to developing affordable housing. Density limitations are a type of barrier to new development, as are restrictions on the minimum lot size or on how far a building must be “set back” from the street. Parking requirements can also be a problem when they increase the amount of land needed per unit. Other barriers include lengthy permitting processes, complicated zoning approvals, and environmental requirements that do not effectively balance legitimate environmental goals with the need for an increased supply of housing. As with density increases, it's unlikely that a barrier reduction strategy alone will satisfy the full spectrum of a community's affordability goals. But it can be an important element of a broader affordability strategy that leads to lower construction costs for affordable housing and stimulates the growth needed to support inclusionary zoning and other affordable housing policies.

Policy Toolkit

To ensure that people of all incomes, races, and ethnicities can continue to afford housing in neighborhoods experiencing rising rents, most communities will require a multifaceted strategy.

The overall strategy should include multiple policies and programs addressing different dimensions of the housing challenge. In this chapter, we provide a toolkit of policies and programs organized under six categories, each of which represents a different strategic approach for achieving the ultimate goal of ensuring the availability of affordable housing for low- and moderate-income households in the neighborhood(s) of interest:

Where can I find out more about promising local housing policies?

- › **HousingPolicy.org:** A website maintained by the National Housing Conference's Center for Housing Policy
- › **Equitable Development Toolkit:** A website maintained by Policylink

- › **Preservation:** preserving existing affordable rental units
- › **Protection:** helping longtime residents who wish to stay in the neighborhood
- › **Inclusion:** ensuring that a share of new development is affordable
- › **Revenue generation:** harnessing growth to expand financial resources for affordable housing
- › **Incentives:** creating incentives for the development of affordable housing
- › **Property acquisition:** facilitating the acquisition of land for affordable housing

We recommend that communities combine policies from all six of these strategic approaches because one or two are generally insufficient to make substantial progress toward the goal of ensuring that low- and moderate-income households can afford to live in neighborhoods with rising rents. By acting simultaneously on multiple policy fronts, communities maximize their chances of efficiently and effectively meeting this challenge.

In this guide, we focus primarily on policies to preserve and expand affordable *rental housing* options in high-demand neighborhoods. While we recognize the importance of owning a home from both health and economic perspectives, we have chosen to focus primarily on rental housing because low- and moderate-income households in urban areas are generally more likely to rent than own and because a different set of policies may be needed to meet the needs of low- and moderate-income homeowners. In some cases, the policies we outline can apply to homeowners as well as renters. We note instances of this overlap where applicable.

Preservation

- › Right of first refusal
- › Property tax incentives
- › Moving properties into subsidy programs
- › Preserving public housing: Rental Assistance Demonstration



One of the most cost-effective approaches for ensuring the ongoing availability of affordable rental housing is to preserve the affordability of housing where low- and moderate-income renters already live.

One study found that it cost 25 to 40 percent more to develop a unit of subsidized rental housing through new construction than through the acquisition and rehabilitation of existing housing units – a common rental preservation strategy.⁴⁶

Most rental housing preservation efforts focus on units whose owners participate in one or more housing subsidy programs. There are two primary reasons for this. First, subsidized units are often easier to preserve than unsubsidized units. Second, many existing subsidized housing developments include “deep” subsidies (such as project-based Section 8 assistance) that support very low-income and extremely low-income renters.*

However, given that most units affordable to low-income households are unsubsidized, preservation policies targeting unsubsidized units are also an important part of an affordable housing policy package.

In this section, we begin with an overview of the essential components of a preservation strategy for subsidized rental housing. We then examine four policies that can help to preserve a range of different property types, including unsubsidized housing.**

Other policies that can be used to preserve affordable rental housing, such as condo conversion policies and property acquisition funds, are covered in other sections of this guide.

* Under a new definition effective in 2014, the term “extremely low-income” refers to households whose incomes do not exceed the higher of: 30 percent of the area median income (AMI) or the federal poverty line for their household size. The term “very low-income” refers to households whose incomes do not exceed 50 percent of the area median income.¹⁰¹

** For a helpful overview of preserving unsubsidized rental housing, see Minnesota Preservation Plus Initiative and One Roof Global Consulting. 2013. [The Space Between: Realities and Possibilities in Preserving Unsubsidized Affordable Rental Housing](#). Minneapolis, MN: Family Housing Fund.

Developing a Strategy for Preserving the Affordability of Subsidized Rental Housing

To develop a strategy for preserving subsidized rental housing, it is important to start with a conceptual understanding of why these developments require preservation. There are three main reasons, each of which gives rise to a corresponding solution:

- **Restrictions on rent levels required by housing subsidy programs generally have a specific duration, after which the owner may choose to raise rents to market levels.** In neighborhoods experiencing or expecting increases in the rents of market-rate housing, owners naturally have a financial incentive to opt out of subsidy programs and raise rents to market levels. Therefore, counteracting incentives will usually be necessary to convince owners to keep rents below market levels.
- **Some subsidized developments have experienced physical deterioration.** To address this issue, owners will often need assistance accessing equity (such as equity from the Low-Income Housing Tax Credit (LIHTC) program) or affordably priced financing for the needed improvements, which can be provided as a quid pro quo for extending affordability periods.
- **In some cases, properties are not being managed by actively involved owners, but rather by owners who function more as caretakers.** In these cases, it may be important to bring in mission-driven owners who are more focused on actively managing the development as an affordable rental property.

The following is a framework for identifying subsidized rental properties in need of preservation and applying the approaches outlined above:

- **Create preservation catalogs.** An important first step is to identify which units to preserve, along with information about the types of subsidies and rent restrictions that apply to each development and find out when those subsidies are going to expire. Some of this information is already available through the [National Preservation Database](#). But other

essential information – notably, regarding state and local subsidies – must be acquired elsewhere.

- **Prioritize properties.** Once all of the candidate properties for preservation have been identified, communities can begin reaching out to owners to learn about their intentions, and about the physical and capital needs of their respective properties, as well as the timing of the expiration of any housing subsidies. This research can help communities prioritize limited preservation resources on the properties that are most important to preserve with regards to location and quality, as well as most in need of preservation given the likelihood that the housing subsidies are expected to expire. This research can also help communities identify the financial challenges properties may face in order to remain affordable.
- **Target resources.** In some cases, existing resources may be sufficient to preserve the highest-priority properties. These resources may include: HOME and CDBG block grants funds; the LIHTC program; tax-exempt multifamily bonds; and 501(c)(3) bonds. The goal is to develop a package of financial supports that can help properties meet any accrued capital needs and continue to maintain them for as long a period as possible. Generally, the quid pro quo for these efforts is a long-term extension of affordability.
- **Expand resources for preservation.** In other cases, additional funding will be needed to preserve properties. The policies discussed in this guide's "Revenue Generation" section generate flexible funding that can be used to meet a wide range of affordable housing needs, including preservation.
- **Facilitate transfers to new owners.** As noted above, financial assistance alone is not always sufficient to meet the preservation challenge. Sometimes communities must also work to ensure subsidized properties are owned by mission-driven owners who are committed to actively managing the property and preserving long-term affordability. This requires the cultivation of mission-driven owners (often nonprofits) as well as the facilitation and financing of purchases.

Right of First Refusal

How it works

A “right of first refusal” (sometimes called a “right of first purchase”) is a policy that ensures a qualified nonprofit developer, a government agency, or the development’s tenant association has the ability to purchase a subsidized rental housing property if and when the owner decides to stop participating in the subsidy program. In some cases, this right is triggered only when the owner decides to sell the property; in other cases, it is triggered by a broader range of circumstances. By facilitating the transfer of these properties to new owners who are dedicated to maintaining long-term affordability, these policies help facilitate the preservation of existing subsidized rental housing.

The range of incomes served by these policies will depend on the type of subsidy attached to the development. For instance, properties that include a “deep subsidy,” such as project-based Section 8 assistance, will be affordable to renters with the very lowest incomes. Other properties may be targeted at very low-income renters or renters with slightly higher incomes (up to 60 percent of area median income (AMI)).*

Where to start

These policies can be adopted either at the state or the local level, with the department of housing often playing an implementation role in either case.

Considerations

Policies that stipulate the “right of first refusal” must identify the types of buildings the policy applies to; usually these policies cover multifamily rental properties with a certain percentage of subsidized units or particular types of developments in targeted geographic areas. While a “right of first refusal” or “right of purchase” provides an opportunity for mission-driven owners to acquire a property and maintain it as affordable, the new owners may need assistance putting together a financing package to ensure the property is on sound financial footing. In many cases, they will also need new subsidies to renovate the property.

CASE STUDY

San Francisco’s Assisted Housing Preservation Ordinance stipulates that an owner of an assisted housing development must offer a “qualified entity,” such as a government entity, the development’s tenant association, or a nonprofit corporation, the opportunity to purchase the development before selling or transferring the property. Owners are paid a “fair return price” that guarantees a minimum return of 10 percent on their investment.

Maryland, Maine, and Massachusetts have implemented statewide legislation to preserve subsidized rental housing. These laws have two main components. The first requires owners of subsidized rental housing to inform tenants and local government entities before they end affordability restrictions. In Massachusetts, owners have the longest notification requirement and must provide notification at least two years before selling or ending affordability restrictions.

* Area median income (or AMI) is a metric developed by the U.S. Department of Housing and Urban Development to measure an individual or family’s household income against the median household income in the surrounding area. In this case, if the median income of a region was \$100,000 then 60 percent of AMI for a family of four would be \$60,000. More information is provided in the [Affordable Housing Primer](#).

The second component is that a government entity and/or low-income developers must be afforded the “right of first refusal” (known as “right of first purchase” in Maryland) to purchase the property and preserve affordability. In Maryland, qualifying entities, including the local housing authority and low-income developers, have the “right of first purchase” when an owner proposes to sell or transfer an “assisted unit.” In Maine, the state housing authority has the “right of first refusal” when an owner takes any action that would result “in the termination of financial assistance designed to make the rental units affordable to low-income or moderate-income people.” In Massachusetts, the Department of Housing and Community Development has the “right of first refusal” as well as the opportunity to match any other offers submitted.

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Property Tax Incentives

How it works

One way to preserve the affordability of a rental property is to provide owners with financial incentives for achieving this outcome. These incentives can be delivered in a variety of different ways, including property tax exemptions or abatements. A property tax exemption lowers the amount of tax a property owner owes by reducing the property’s assessed value. A property tax abatement lowers an owner’s property taxes by providing a credit against taxes owed. Both approaches can incentivize owners to maintain their subsidized or unsubsidized property as affordable.⁴⁹

Where to start

Property tax incentives are adopted by local departments of finance, revenue, or taxation and may require state authorization.

Considerations

When property tax incentives are used to encourage property owners to remain in government subsidy programs, or when they are applied as part of a financing package for mission-driven owners seeking to purchase a subsidized property, property tax incentives can foster long-term affordability. Tax incentives can also be a means of persuading unsubsidized property owners to maintain affordable rents, but generally the subsidies remain for only a limited period, such as ten years. If rents and property values are trending up, and if a property upgrade is required to qualify for the tax incentive in the first place (as is often the case), it is unlikely that owners (unless they are mission-driven) will continue to participate in the incentive once the initial period ends, as they can realize a higher profit by renting to market-rate tenants.* For this reason, in the context of rising rents, property tax incentives for unsubsidized properties might best be considered an “affordability bridge” for a ten- or 15-year period, providing the community with time to develop and implement long-lasting options for affordability, such as the construction of Low-Income Housing Tax Credit (LIHTC) developments paired with long-term affordability covenants.

* Market-rate tenants refers to households that pay the “going rate” for housing. In general, market-rate housing means that neither the tenant nor the landlord receives a subsidy.

CASE STUDY

In Chicago, the Class 9 program provides tax abatement for owners of market-rate properties that undergo substantial rehabilitation, so long as the owners agree to keep 35 percent of their units affordable to families with incomes at or below 80 percent of AMI. The Class 9 program also explicitly states that rehabilitation must be accomplished in a manner that ensures the affordable units in a building are of comparable quality to market-rate units.

Seattle adopted a Multifamily Tax Exemption Program in 2004 that encouraged property owners and developers to renovate or construct multifamily developments for low- to moderate-income households. In exchange for setting aside 20 percent of their units as affordable, owners receive a property tax exemption for the assessed value of their improvements or construction.⁵⁰

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Moving Properties into a Subsidy Program

How it works

In neighborhoods where rents are on a strong upward trajectory, the safest approach for maintaining the affordability of unsubsidized rental housing is to bring it into a government subsidy program. One option is the Low-Income Housing Tax Credit (LIHTC) program, which owners or purchasers of multifamily buildings can use to revitalize older properties in need of renovation. Because LIHTC units may be rented only to households with incomes below 60 percent of AMI – and many target households with even lower incomes – this process preserves housing units' affordability even as it improves their quality through rehabilitation funded by LIHTC equity. A second option, which can be used alone or in conjunction with recapitalization through LIHTC, is to attach federal Housing Choice Vouchers (sometimes known as Section 8 vouchers) to specific units (a process known as “project-basing” that produces project-based vouchers). This option requires the participation of a public housing agency with an allocation of housing vouchers and a willingness to use their vouchers in this manner.

Where to start

Typically, different people need to work together to implement this approach. Nonprofits or other mission-driven developers will likely be needed to apply for LIHTC subsidies. State housing finance agencies can help by structuring the allocation of LIHTCs (within their Qualified Allocation Plans)* in a way that encourages the use of these credits for activities that preserve housing affordability. A state or local housing agency will also be needed as a partner if a project requires the project-basing of Housing Choice Vouchers.

Considerations

In some cases, existing owners of unsubsidized properties may be encouraged to apply for LIHTC, but the complicated nature of this program usually deters them. Therefore, in most cases, a mission-driven developer is needed to serve as the

* Qualified Allocation Plans are developed by the states and explain the criteria used to distribute the LIHTC subsidies.

applicant. This, in turn, requires the existing owner to be willing to transfer the property to or partner with the mission-driven developer.

The rents of properties financed with LIHTCs are generally not low enough to serve renters with the lowest incomes, unless those rents are layered with other subsidies. One advantage of combining LIHTCs with Housing Choice Vouchers is that the voucher provides a “deep subsidy” that bases rent on tenant income, and can thus be used to serve households with little or no income. However, there are limitations on the share of units in a development that may receive project-based Housing Choice Vouchers (unless the development is dedicated to elderly households, persons with disabilities, or other households receiving supportive services). Another issue is that project-based voucher contracts come with a limited duration of 15 years. Unless they are used at a property owned by a nonprofit or a mission-driven for-profit, or they include some mechanism that empowers the housing authority to require a renewal (such as a contractual option for the housing authority to renew the voucher contract), project-based vouchers will support affordability only during a bridge period, rather than over the long term.

CASE STUDY

In addition to administering federally funded public housing and housing choice vouchers, the King County Housing Authority (KCHA) in Washington has accumulated a large portfolio of rental properties (some of which include units with rental subsidies and some of which do not) that it maintains as a resource for moderate-income renters. In acquiring and maintaining these properties, KCHA uses a mix of tax-exempt bonds and LIHTCs, as well as market mechanisms such as portfolio financing. In addition to preserving the affordability of these properties for moderate-income households, KCHA project-bases housing choice vouchers in a share of the units to ensure they are affordable to the renters with the very lowest incomes. In selecting units to acquire, KCHA focuses on neighborhoods that provide residents with access to quality schools, have lower rates of poverty, or meet other indicia of opportunity.^{52,53}

Rental Assistance Demonstration

How it works

The preservation challenge for public housing units in target neighborhoods does not generally refer to the preservation of affordability but rather to maintenance of units’ physical quality and the sustainability of their finances. In some cases, these units may be in good condition, but in other cases, they may have accrued substantial capital needs that require an infusion of equity to bring them up to current standards. A new federal program called the Rental Assistance Demonstration (RAD) offers a solution that converts public housing subsidies into a form that can be used as the basis for securing private financing and can be combined more easily with other subsidies. The most likely beneficiaries of the RAD program are people currently living in public housing (or in some cases, other forms of HUD-assisted housing) or very low-income households that may apply for vacant units.

The Preservation Compact – A Multifaceted Effort to Preserve Unsubsidized and Subsidized Rental Housing

In Cook County, Illinois, a partnership known as the Preservation Compact developed a Rental Housing Action Plan in 2007 to preserve the affordability of 75,000 affordable rental units by 2020.⁵¹

To achieve its goal, the group is focused on a series of initiatives that address key challenges facing both subsidized developments and unsubsidized properties with affordable rents, including limited sources of funding for renovations and recapitalization and a lack of incentives for preserving affordability. The Preservation Compact has taken steps toward creating a Preservation Fund that will provide capital for properties at risk of becoming unaffordable.

The group has also implemented an Energy Savers Program to help affordable rental property owners lower their energy-related operating costs. Another initiative is the creation of an Interagency Council that has facilitated partnerships between governmental agencies essential to preserving housing in the state. The group has also developed tools, such as the Rental Housing Data Clearinghouse, which serves to identify properties at risk of losing their affordability status due to expiring subsidies or market shifts.

Where to start

Public housing authorities apply to participate in the RAD program, and the program operates at the state or local level.

Considerations

Congress limits the number of units that may participate in the RAD program. Thus, demand for the program can outstrip supply. Another limiting factor is that the private financing that can be secured by converting public housing through RAD is not always sufficient to cover the full costs of rehabilitating a development with a sizable backlog of capital needs. Therefore, additional subsidies (through LIHTC or other sources) are usually needed to cover the full costs of rehabilitation, particularly in high-cost markets.

In some communities, the redevelopment of public housing has been controversial due to concerns about the loss of dedicated units affordable to the renters with the very lowest incomes. In this context, it is important to understand that RAD is not a large grant program like HOPE VI or Choice Neighborhoods (federal programs focused on revitalizing aging public housing and privately owned subsidized housing). While some housing authorities may seek to use RAD to facilitate larger projects, for the most part RAD is dedicated to stabilizing the financing of public housing projects to ensure their long-term viability rather than large-scale revitalization.

CASE STUDY

In Baltimore, HUD (under the RAD program) approved funding for the Housing Authority of Baltimore City (HABC) to help preserve and maintain over 4,000 of its 11,000 public housing units. According to a report from June 2014, the two-phase development schedule includes renovation in 22 HABC facilities over a period of two years.⁵⁴

Establishing Benchmarks or Performance Targets

One way to give focus and transparency to preservation efforts is to set specific benchmarks or performance targets. These benchmarks provide a yardstick for determining progress and allow interested parties to hold the system accountable for results.

One such benchmark is “no net loss” of affordable housing. In Arlington County, Virginia, for example, the county has set a goal of ensuring no net loss of subsidized rental housing. This represents a pledge to replace any subsidized housing lost from the subsidized inventory with newly developed subsidized units. The county has also pledged to use reasonable efforts to maintain a supply of unsubsidized units that rent at affordable levels.⁴⁷ Each year, the Department of Community Planning, Housing and Development issues an

Annual Affordable Housing Targets Report to assess whether it is meeting its goals. As of 2013, no affordable subsidized units have been lost since the goal was established in 2011, with an average of 272 new subsidized units added annually.⁴⁸ In the Columbia Pike Corridor – a planned streetcar route – Arlington has expanded its commitment, pledging to retain or replace the loss of all affordable *unsubsidized* rental housing units as well.

Of course, communities can aim even higher, pledging not only to hold the number of affordable housing units steady in the face of housing cost pressures but to achieve a “targeted net gain” of affordable units. Communities may want to base this goal on the percentage of units affordable to targeted income groups rather than any fixed number of units. The percentage is a more meaningful statistic than the “raw number” when neighborhood populations increase due to the filling of vacant units, the restoration of

dilapidated developments, or the redevelopment of existing properties at a higher density.

Another commonly used benchmark is “one for one replacement,” which generally refers to the redevelopment of subsidized affordable rental units following the demolition of a public housing development. Over the last several decades, a number of public housing agencies have worked to revitalize aging public housing developments by demolishing obsolete high-rise units and rebuilding developments at a lower density, using a mixed-income model. Some advocates have been concerned that these redevelopment plans can result in a net loss of subsidized rental housing affordable to extremely low-income households. Therefore, they have pushed for a “one for one” replacement of subsidized housing units, either through on-site redevelopment or through redevelopment in neighborhoods with equivalent or better amenities.

Protection

- › Good cause eviction policies
- › Condominium conversion protections
- › Rent stabilization



Whereas preservation policies are designed primarily to **preserve the affordability of specific housing units**, the policies in this section focus on **protecting residents from the effects of rising rents or condo conversions** by helping to reduce the risk of displacement or by helping them relocate to new units if necessary.

These policies can help improve stability for existing residents by giving them greater control over whether and under what circumstances they wish to move.

Good Cause Eviction Policies

How it works

In some states, renters can be evicted for any reason whatsoever or for no reason at all. However, communities often have the power to adopt laws that provide renters with increased protection, requiring, for example, that owners demonstrate “good cause” for eviction, such as nonpayment of rent or intentional damage to the unit. While these protections can’t help residents who simply can no longer afford their rents, they can reduce the incidence of indiscriminate evictions, giving residents more time to adjust to higher rents and, if necessary, look for alternative housing arrangements. When paired with rent stabilization policies, good cause eviction policies can promote stability for existing residents for many years.

Where to start

These policies can be adopted at the state or local level and are enforced by the court system where “lack of good cause” is recognized as a defense to an eviction.

Considerations

To determine whether a good cause eviction policy is needed, the first step is to examine current legal protections for renters in a given state or locality. A landlord-tenant lawyer or advocate can help evaluate the extent of current protections and identify what additional protections might be required to ensure residents are protected. In addition to providing good cause protections, it will likely be important to fund outreach to residents to ensure they are aware of these protections and understand how they work.

CASE STUDY

In Oakland, California, all residential units are covered by the Oakland Just Cause for Eviction Ordinance. Residents may be evicted for only one or more of 11 enumerated reasons, and residents who can claim “protected status” (those who are elderly, have a disability that limits a major life activity, or have a catastrophic illness) are even further protected from owner or eligible-relative move-ins.⁵⁵

Condominium Conversion Protections

How it works

Condominium conversions take place when a building currently held by a single legal entity and used for rental housing is broken up into several individual units that can be sold separately. For example, a developer may buy a four-unit apartment building, convert the apartments to four condominium units, and sell each to a different homebuyer. Condo conversion policies have the dual goal of: (a) protecting the residents when their rental units are converted to condominiums; and (b) helping to offset the impact of the reduction in rental housing supply, which can contribute to higher rents in other developments. These policies thus have attributes that serve both preservation and protection objectives.

Condo conversion protections often give residents anywhere from 90 days’ to three years’ advance notice of a conversion. Protections may also include relocation assistance for displaced households. Some policies require that residents be offered the right to purchase a unit before it is offered to new residents. This can save residents who are financially capable of making the purchase from being dislocated.

To help offset the effects of the reduction in rental housing supply that results from a condo conversion, some cities exact a fee on the seller that goes toward an affordable housing fund. Others establish a lottery that restricts the number of

Oakland Tenant Protection Ordinance

In November 2014, the City of Oakland, California, passed an ordinance designed to protect tenants from harassment by their landlords. The Oakland City Council found that significant demand for rental housing and increased housing pressures for low- and middle-income residents warranted improved

rent stabilization and tenant protection policies.⁵⁶

The council noted that the ordinance was necessary “in order to foster constructive communication [between tenants and landlords], maintain an adequate supply of a variety of rental housing options and protect the health, safety and general welfare of the public.”⁵⁶ The ordinance lists 16 forms of tenant harassment, including

removing personal property without consent; influencing a tenant to vacate a rental unit through fraud, intimidation, or coercion; threatening the tenant; refusing to accept a tenant’s lawful rent payment; and interfering with a tenant’s right to privacy.⁵⁶

Tenants’ rights advocates in Oakland support the ordinance as a way to protect against displacement, especially for low-income residents.⁵⁷

buildings that can be converted in a year. Some jurisdictions also give residents, as a group, a “right of first refusal” for the purchase of the entire building, which can serve as a mechanism for facilitating the transfer of ownership to a mission-driven developer who will preserve the building’s units as affordable rental housing.

Where to start

Condo conversion policies are typically adopted through local ordinances at the city or county level and administered by local housing departments. State authorization may be necessary.

Considerations

Condo conversion policies are often set up as a package of complementary policies. Effective policies should determine: whether tenants will be given the “right of first refusal” for buildings and/or individual units; the length of notice provided to residents before the conversion is allowed to take place; the amount of relocation assistance to be provided; the requirements owners must meet to convert their properties; whether owners will be charged a fee for the conversion process; and whether that fee will be set aside for affordable housing.

CASE STUDY

In Amherst, Massachusetts, due to a severe shortage of rental housing, no condo or co-op conversion is permitted without a conversion permit. Permits can be obtained only if either: (a) the vacancy rate for rental units in the town is above 5 percent, or (b) prohibiting a conversion would constitute an unconstitutional taking, which the Board of Selectmen (the executive body of the town government) must rule on.

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Property Tax Circuit Breakers

While outside the scope of this policy guide, which focuses on rental policies, property tax circuit breakers are an important component of a protection strategy.

Property tax circuit breakers help low- and moderate-income homeowners afford to stay in their communities, even as property values increase. The problem arises when longtime

homeowners – often elderly households on fixed incomes – experience sharp increases in property taxes due to escalation of property values. Without the ability to increase their incomes, these households may be at risk of losing their homes due to a tax foreclosure, or be forced to sell their homes and move against their wishes.

To address this problem, communities can: cap the amount by which property taxes can increase in a given year; set a maximum property tax

level based on income; exempt a certain amount of assessed value from tax; and/or allow owners to defer property tax payments until after the home is sold.

By applying these policies to residents who have been in homes for a certain period of time (e.g., five years), the benefits can target existing residents. Some states adopt similar policies in the form of a credit against state taxes.

Rent Stabilization

How it works

Rent stabilization is a form of rent regulation that specifies that once an initial rent is set for a particular unit covered by the program through a lease between the owner and a new tenant, it can increase only by a specified amount each year. While these policies generally allow rents to rise to market prices each time a new resident is admitted – and thus do not guarantee a new tenant will be offered a below-market rent – they do promote housing stability for existing residents. Renters of all income levels benefit from rent regulation policies, but these policies are especially helpful for people with limited ability to adjust to sudden rent increases, such as older adults on fixed incomes or very low-income renters.

Most rent stabilization policies do allow owners to raise rents to cover the costs of capital improvements, so the policies cannot provide full protection from large rent increases, particularly in areas experiencing an influx of higher-income residents. They also often apply only to older buildings. But rent stabilization does generally give renters a clear picture of what their housing costs will be for the duration of their stay in a unit. This is important because most renters will choose a rental unit based on their anticipated earnings for the foreseeable future.

Rent stabilization policies can be controversial and thus can be difficult to implement. They are generally accompanied by good cause eviction policies (addressed earlier in this section), which work in tandem with rent stabilization to promote residential stability.

Where to start

These policies are typically adopted through ordinances at the local level by city or county councils. They can be administered by any number of different agencies, such as a Rental Stabilization Board or the local housing department. A number of states have prohibited the adoption of such policies, so a key initial question is whether rent stabilization is authorized in your state.

Considerations

Jurisdictions typically pass rent stabilization ordinances with a variety of stipulations, including the percent a landlord is allowed to increase rent every year and whether landlords are allowed to increase rent to account for the cost of capital improvements. Policymakers may also choose to cover only buildings of a certain vintage (e.g., buildings built before 1980) or to apply the policy only to buildings with a particular number of units (e.g., multifamily buildings with four or more units). Rent stabilization policies often provide that a unit may float up to market value once a tenant leaves. In other cases, a formula that accounts for inflation and other factors may be used to set rent levels between tenancies.

Rent stabilization policies can be controversial, and careful efforts must be made to balance the need to protect renters from price shocks with the need to allow owners a healthy return on their investment so they continue to invest in rental housing and maintain it in good condition.

CASE STUDY

The Rental Housing Act of 1985 established Washington, D.C.'s rent stabilization program, commonly known as "rent control." The limit on rent increases for units covered by the act is based on changes in cost-of-living measurements captured by the Consumer Price Index. For most tenants, the annual rent increases are around 1.5 percent, and they never exceed 10 percent. For the elderly or disabled, the maximum increase is 5 percent. When an apartment is vacated, owners may raise rents to the level charged for comparable units in the area (but not by more than 30 percent) or, alternatively, by 10 percent of the prior rent.⁵⁸ As of June 2011, a study conducted by NeighborhoodInfo DC estimated that there were approximately 4,800 rental properties, primarily multifamily, subject to rent regulation through this policy in the district.⁵⁹

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Inclusion

- › **Mandatory inclusionary zoning**
- › **Density bonuses and other voluntary inclusionary policies**



Efforts to preserve affordable rental housing and protect residents from the effects of rising rents are important components of an overall strategy to ensure low- and moderate-income households can afford to live in neighborhoods with rising rents.

But by themselves, these strategies are insufficient to prevent the erosion of affordable rental opportunities in these neighborhoods, let alone maintain a constant share of units affordable to low- and moderate-income renters as the population of the neighborhood rises due to more intensive development.

There are two reasons why preservation and protection policies are insufficient alone. First, it is almost never possible to preserve all affordable rental units in the face of strong demand for housing. Affordable rents on unsubsidized units are particularly difficult to sustain. Second, in high-demand neighborhoods, as lower-density development is replaced with higher-density development and dilapidated structures are redeveloped, the number of occupied housing units will likely increase. To keep pace with these changes and ensure low- and moderate-income households have equitable access to housing in the neighborhood, it is necessary to guarantee at least some of the newly developed housing units are affordable.

The policies in this section focus on ensuring a share of new development is affordable to low- and moderate-income households. Many of the other policies discussed in the remaining sections of this guide, including tax increment financing, housing trust funds, and acquisition funds, can also be used to help achieve this goal of inclusion. The terms “inclusionary housing strategy” and “inclusionary housing policies” are sometimes used to denote the full range of housing policies that promote inclusion, such as inclusionary zoning and other policies that help ensure a share of new development is affordable to low- and moderate-income households.

Mandatory Inclusionary Zoning*

How it works

Mandatory inclusionary zoning is a land use policy that requires developers to make a share of newly developed units affordable. Inclusionary zoning policies typically specify that a certain percentage of new units – 10 percent or 20 percent, for example – be made affordable to households at a certain income level. Inclusionary zoning typically comes with “offsets” (such as an increase in the number of units an owner is allowed to develop on his or her property) designed to partially or fully compensate for the lost revenue associated with renting or selling units at levels below what the market would otherwise bear.

Inclusionary policies can produce affordable housing only in neighborhoods where development is taking place, and to be effective, inclusionary policies must be adopted before that development occurs. It is most effective in producing housing only modestly below current market levels – targeting, for example, renters with incomes between 60 and 100 percent of AMI and owners with incomes between 80 and 120 percent of AMI. For this reason, many communities layer other subsidies on top of inclusionary zoning policies to help lower-income households.

Where to start

Inclusionary zoning is typically adopted by local planning commissions as an element of local zoning codes. It is generally enforced by zoning boards, development review boards, and/or other agencies charged with issuing building permits and granting zoning variances. The local housing department generally plays a role in monitoring the ongoing affordability of affordable units created through inclusionary zoning.

Considerations

Jurisdictions must consider an array of factors in developing a successful mandatory inclusionary zoning policy. To begin, they must decide whether the mandate will apply to every unit developed or only to certain units, as well as whether the policy will be mandatory or voluntary (addressed in the next section). Jurisdictions must also determine the length of time new units will be required to remain affordable.

Jurisdictions also must consider what offsets (if any) to provide to owners to compensate them for the loss of revenue incurred by renting out units below market rates. Meaningful offsets are important both for securing political support for the policy and for reducing the likelihood that an inclusionary policy will drive development to other locations or reduce the overall supply of housing.⁶⁰ The principal offset generally provided to property owners is an increase in permitted density. Other offsets include: reductions in the number of required parking spaces and exemptions from certain planning requirements, such as minimum setbacks (how far housing must be set back from the street). Some communities also make subsidies available to support the affordable units. In developing an offset policy,

* Inclusionary zoning is referenced in the [RWJF county health roadmap](#), which states: “There is some evidence that inclusionary zoning (IZ) policies increase access to and production of quality, affordable housing for low and moderate income households, especially in urban areas with strong housing demand.”

it is important to ensure the offsets make sense within the specific market context rather than simply adopting policies that have worked in another community with different policy and market contexts. For example, a community in which there is little market interest in developing taller buildings might not respond as well to a density bonus as a community in which higher-density development is more common.

Another question is whether to allow owners or developers to pay a fee in lieu of providing affordable housing units on-site. In-lieu fees can be a challenging and controversial topic. One challenge is determining the appropriate level at which to set the fee. If the fee is too low, developers will be incentivized to pay the fee rather than deal with the complication of including affordable units on-site. Further, the fee may prove insufficient to cover the costs of developing a quality affordable housing unit. If the fee is too high, however, it may discourage development or push development elsewhere. A second challenge with in-lieu fees – one that is particularly pertinent to a housing affordability strategy in a neighborhood experiencing rising rents – is that it may be difficult to find an appropriate site in the neighborhood at which to use the in-lieu fees. A fee used to support affordable housing in a completely different part of town does little to advance the goal of preserving and expanding affordable housing in the neighborhood where the fee was assessed.

A final important issue is how to ensure very low-income and extremely low-income renters can afford to live in units developed as “affordable” through an inclusionary zoning program. A number of jurisdictions have solved this problem by allowing their local housing authorities to purchase a share of the units and bundle them with other subsidies, thereby making them affordable to lower-income populations, including extremely low-income renters. Project-based vouchers are one type of additional subsidy that can be used in this way.

CASE STUDY

Montgomery County, Maryland, in the Washington, D.C. metro area has one of the oldest mandatory inclusionary zoning policies in the country. Currently, Montgomery County requires projects with 20 or more residential units to set aside at least 12.5 percent of newly developed units as affordable. Rental units must be affordable to households at or below 65 percent of AMI, while ownership units must be sold below a price specified by the county. Developers that take advantage of the county’s density bonus must set aside a higher percentage (up to 15 percent) of newly developed units as affordable.⁶¹

From 1976 to 2013, Montgomery County’s program produced more than 14,000 affordable units.⁶² A large portion of these units are no longer affordable, however, because the county did not initially require a long enough affordability period. The county has learned from this experience, and today the county requires that rental units remain affordable for at least 99 years, and that ownership units remain affordable for at least 30 years (with that covenant renewing each time the property is sold). In addition, the county’s housing authority, the Housing Opportunities Commission, and nonprofit developers are authorized to purchase

up to 40 percent of units made affordable through this policy for the purpose of making and keeping that housing affordable to lower-income renters who may need additional subsidies.

Density Bonuses and Other Voluntary Inclusionary Policies

How it works

While many practitioners and advocates believe mandatory inclusionary policies are more effective than voluntary ones, a number of notable examples of successful inclusionary policies are structured as incentives rather than requirements. Typically, these policies provide that property owners can receive a benefit, such as a density bonus (the right to build more units than typically allowed at the location of their building), if they agree to make a certain share of units affordable to moderate-income households. Another approach is to make adherence to inclusionary policies a condition of obtaining a zoning variance, which allows property owners to develop in a manner that differs from what underlying zoning rules require. Under this approach, owners are free to develop their properties within existing zoning specifications without having to produce affordable units, but if they seek a variance to increase the economic potential of their property, they must ensure that a share of new residential development is affordable. Similarly, a community could make access to financial resources for redevelopment contingent on an owner's agreement to include affordable housing within the development.

Like mandatory inclusionary policies, voluntary ones usually work best for producing housing only modestly below market levels at the time it is created – targeting, for example, renters with incomes between 60 and 100 percent of AMI and owners with incomes between 80 and 120 percent of AMI. For this reason, many communities layer other subsidies on top of inclusionary zoning policies to reach lower-income households.

Where to start

As with mandatory inclusionary zoning, voluntary inclusionary zoning policies are typically adopted by local planning commissions as an element of local zoning codes, and normally enforced by zoning boards, development review boards, or other agencies charged with issuing building permits and granting zoning variances. Ideally, the local housing department would play a role in monitoring the ongoing affordability of affordable units created through this policy.

Considerations

The key to a successful voluntary inclusionary policy is really strong incentives that make sense within the market context. Some may question whether voluntary programs work effectively outside a context like New York City (where increased density is highly valued by the market), but there is positive experience in other jurisdictions with voluntary inclusionary policies that make zoning variances conditional on meeting inclusionary thresholds (see below). While additional research would be useful to catalogue the circumstances under which voluntary programs do or do not work well, it stands to reason that if the incentive for a

voluntary program is not very strong or meaningful, the policy is unlikely to be successful. A mandatory policy that includes only minimal offsets for developers will also face steep political challenges and could depress the incentives for owners to develop their properties. This analysis points to the importance of strong offsets/incentives valued by the market, whether the policy is mandatory or voluntary.

A number of communities around the country stipulate – either in formal policy or as a matter of practice – that inclusion of affordable units is a precondition to any requested variance from standard zoning requirements.

This approach can sometimes be adopted as a matter of practice even when there is insufficient political will to establish a broadly applicable inclusionary zoning policy. Adopting such a policy as a matter of practice rather than as a formal rule gives policy officials a lot of control over individual development decisions, which get made on a case-by-case basis. On the downside, this approach can increase the costs of development and be less predictable to developers, which can depress the overall level of supply and investment in the housing market.

CASE STUDY

New York City rezoned formerly industrial land on the Brooklyn waterfront as residential land, providing a strong density bonus for developers that agreed to meet specified affordability targets. The policy was also applied to a number of other locations that were rezoned to allow for higher density. The program generated about 2,700 permanently affordable rental units between 2005 and 2013. There were 949 affordable units built on the Brooklyn waterfront, which accounted for about 13 percent of total units built in the area.⁶³ However, a New York City advocacy organization and city council member have argued that the program has not produced enough affordable rental housing to meet the city's needs. They have instead pushed for a mandatory policy with broader applicability.⁶³

Arlington County, Virginia, provides a density bonus to developers in cases in which the county board judges that the "low or moderate-income housing being provided under the site plan is sufficient to justify the amount of the additional density allowed."⁶⁴ The density bonus program originally provided for up to 15 percent increased density, but this was increased to 25 percent once it became clear the smaller density bonus was no longer a large enough incentive to induce the inclusion of affordable units.⁶⁵



Revenue Generation

- › Tax increment financing
- › Linkage fees
- › Housing trust funds



The largest funding streams for affordable housing come from the federal government. However, jurisdictions can also generate funding for affordable housing in neighborhoods experiencing rising rents and home prices by leveraging the development activity and economic growth associated with new development or redevelopment.

These strategies work best in neighborhoods experiencing or expecting increases in property values – precisely the neighborhoods where action is most needed to ensure that low- and moderate-income households can continue to afford to reside. These revenue-generating policies are sometimes called “value capture” mechanisms because their potential for raising funds depends on capturing a share of increased property values. There are three principal policies within this category.*

Tax Increment Financing

How it works

Tax increment financing (TIF) is a mechanism for funding infrastructure and other public improvements through anticipated increases in property taxes resulting from new investments.⁶⁶ For example, let’s say a community wants to redevelop a distressed downtown neighborhood and needs funding for the necessary investments in roads, sidewalks, water/sewage, schools, parks, etc. These investments, in turn, are expected to increase the value of property in the neighborhood, generating increases in property taxes. By establishing a TIF district, with specific geographic boundaries and a specific duration, a community can capture some or all of the increased property taxes collected after the investments

* In some respects, inclusionary zoning and density bonuses can be thought of as value capture mechanisms too, but we have assigned them their own section because of their importance and the many options involved in designing effective inclusionary policies.

are made (the “increment”) for the duration of the TIF. These funds can be used to reimburse the community for the original investment or to repay a loan that was made to finance the improvements.

Depending on state law, the property tax increment can be used for many other purposes as well, including affordable housing within the TIF district. Tax increment financing thus creates a pool of funding that can be used for affordable housing. To ensure that a portion of funding is set aside for housing, communities should require that a share of TIF revenue be used for affordable housing *in advance*. Communities should also specify how the affordable housing funds will be allocated, such as whether funds should prioritize below-market ownership of a home and/or rental assistance for people at certain income levels or affordable housing for populations with special needs.

TIFs operated by redevelopment agencies were a major source of funding for affordable housing in California until the state passed legislation in 2012 dissolving those agencies.

Where to start

TIF policies are typically adopted by city or county councils and administered by a range of agencies including planning departments, finance or revenue departments, housing departments, and redevelopment agencies. State law generally determines whether and under what circumstances localities may adopt TIFs.

Considerations

The key to applying a TIF to affordable housing is to enact a legally binding requirement, *at the time the TIF is established*, to use a portion of the funds for affordable housing.

Another issue relates to the criteria that qualify a neighborhood to be designated as a TIF district. TIFs can be controversial, particularly if they are perceived to be diverting taxes needed to support local schools. For this reason, TIF legislation often specifies that TIFs may be used only in blighted or distressed neighborhoods, where it is generally expected that property values would be unlikely to recover without large public investment.* The requirement that a neighborhood be blighted or distressed to qualify as a TIF would seem to make TIFs poorly suited for application in neighborhoods experiencing influxes of higher-income households. However, it’s important to bear in mind that TIFs can operate for a decade or more, so it’s quite possible for a neighborhood to start out as distressed (at the time a TIF is developed) and then become attractive to higher-income households over time, perhaps even *because* of the public investments and the subsequent private investments. Also, different states interpret TIF requirements differently, and in some states, the criteria for establishing a TIF are sufficiently broad that many neighborhoods can qualify, including neighborhoods that are likely to attract higher-income households.

* One way to reduce the controversy is to allow school taxes to be exempted from the TIF or otherwise develop an agreement to use a portion of TIF revenue to fund the schools.

For these reasons, it is important to include an affordable housing set-aside within most, if not all, TIFs. So long as the neighborhood is distressed, these funds can be used to improve the quality of existing affordable rental housing. As the neighborhood stabilizes, funds can also be used to help low- and moderate-income households purchase homes in the neighborhood. As the neighborhood starts to experience influxes of higher-income households, the funds can be shifted to focus on preserving and expanding the stock of long-term affordable housing.

The rationale for using TIF funds for affordable housing is that the very circumstance that gives rise to TIF revenue – an increase in property values – is positive from the standpoint of generating revenue but problematic from the perspective of affordable housing. By using TIF revenue for affordable housing, communities help to ameliorate the impact of higher property values on the housing costs of low- and moderate-income residents. This use of TIF funds would seem appropriate whenever property taxes go up – in other words, regardless of whether property value increases are due to an initial public investment or would have happened anyway.

This justification may make TIF expenditures for affordable housing less controversial than TIF expenditures for other uses. But in states that are stricter about requiring that blight or distress be a condition for creating a TIF, it may be difficult to establish a TIF to fund affordable housing in a neighborhood experiencing an influx of higher-income households. In such cases, it may make sense to seek statutory authorization for a different type of mechanism that works like a TIF but can be applied equally to neighborhoods experiencing an influx of higher-income households, irrespective of whether the neighborhood starts out as blighted or distressed. Such a vehicle might conceivably tap only a portion of the “increment” (as traditionally defined in TIFs) so as to minimize concerns about diverting funds from schools and could be put to limited uses, perhaps focused only on affordable housing or on a narrow range of activities that include affordable housing.

CASE STUDY

The City Council of Portland, Oregon, implemented the TIF Set-Aside Policy in 2006 (updated in 2011), which allocates 30 percent of TIF funds to the city’s designated urban renewal areas for the “development, preservation, and rehabilitation” of affordable housing. The income guidelines governing the use of TIF funds in Portland prioritize the most economically vulnerable populations, stipulating that 35 to 50 percent of TIF funds must be used for projects serving households that earn less than 30 percent of AMI; 20 to 45 percent of TIF funds must serve households earning between 31 and 60 percent of AMI; and 20 to 40 percent of TIF revenue must fund ownership housing for households earning 61 to 100 percent of AMI. In the 2012 to 2013 fiscal year, the Portland Housing Bureau invested \$28 million of TIF funds in 19 affordable housing projects to create or preserve 959 units throughout the city.⁶⁷

In Texas, the state legislature established Homestead Preservation Reinvestment Zones to address concerns about rising rents and home prices in parts of Austin and Dallas. The 2007 legislation, updated most recently in 2013, authorizes TIF-like vehicles, as well as other housing policy options, within designated districts. Although problems with the original legislation made it difficult to put the zones into practice — a challenge practitioners and advocates hope has been addressed by the 2013 updates — this legislation provides a model for other states to think outside of the “blight box” of traditional TIF legislation and to set up a new kind of tax increment zone for capturing a portion of increased property taxes.⁶⁸

Linkage Fees

How it works

Linkage programs are another mechanism for generating funding for affordable housing in neighborhoods undergoing new development or redevelopment. They are generally implemented as a fee applied to non-residential development that can be used to build affordable housing. Non-residential development may include retail establishments, hotels, office buildings, manufacturing facilities, and other commercial development, on a per-square-foot basis.

There are a number of justifications for these fees. In areas where residential and non-residential developers are competing directly for land, the competition can drive up property values, aggravating affordable housing challenges. In areas where residential development and non-residential development are not in *direct* competition, such as in designated retail areas, the addition of non-residential development can still stimulate neighborhood change in nearby residential areas by providing amenities that attract additional higher-income households as well as workers who want to live near where they work. This, in turn, can lead to increases in rents and home values. Another argument for linkage fees is that they ensure non-residential development does its “fair share” in helping to maintain the availability of affordable housing; in a sense, it is the non-residential equivalent of an inclusionary housing policy for residential development.

Linkage fees are also sometimes framed as a remedy for a “jobs-housing imbalance” when commercial development begins to outpace affordable housing production in a given neighborhood.⁶⁹ Some communities have found that commercial projects, such as the construction of offices, business parks, hotels, warehouses, and shopping centers, create demand for housing that is affordable to the low-income households whose members work at these businesses. Increased demand for a limited supply of affordable units can drive up rents and home prices, jeopardizing the ability of existing residents to remain in the neighborhood.

Linkage fees can be used for different purposes; how that funding is used and who will benefit from it should be written into the policy (or into the rules for spending local housing trust fund monies, if the linkage fees are deposited into that fund).

Where to start

Linkage fees are typically adopted at the local level by city or county councils or zoning commissions. Fees are generally collected by the same office that issues building permits, often the department of buildings or planning.

Considerations

In implementing a linkage program, communities need to strike a balance between raising funds for affordable housing and still encouraging economic development and growth. Concerns about increasing costs to businesses and discouraging commercial development have stymied efforts to implement or strengthen some linkage fee programs.

Other linkage fee programs have faced legal challenges contesting their constitutionality.⁶⁹ In Sacramento, for example, the linkage fee program was challenged by the Commercial Builders of Northern California shortly after it was passed in 1989. The federal court rejected the plaintiff's argument and the appellate court upheld that ruling, stating that the ordinance "was enacted after a careful study revealed the amount of low-income housing that would be necessary as a direct result of the influx of workers that would be associated with the new non-residential development. These court cases have set the stage for the future design and implementation of linkage fee programs.⁷⁰ However, local governments must clearly define a "link between fees and impact," indicating that the linkage fee directly mitigates the impacts of new development.⁶⁹

Notwithstanding legal hurdles, linkage fees have been used successfully in a number of communities around the country. Some localities, such as Fairfax County, Virginia, have implemented a linkage fee program in response to planned transit development.⁷¹ Others, like Boston, apply the policy citywide.

CASE STUDY

Arlington, Virginia, enacted linkage fees specifically for commercial development. In 2013, the fee was \$1.77 per square foot.⁷¹ Between 2008 and 2012, the county collected \$8.8 million and anticipated receiving \$13.9 million between 2013 and 2016.⁷¹

In San Francisco, the Job Housing Linkage Fee applies to developments 25,000 or more gross square feet in size.⁷² The following are the fees for different types of development, on a per-square-foot basis:

Year	Entertainment	Hotel	Office	R&D	Retail	Small Enterprise
2014	\$22.42	\$17.99	\$24.03	\$16.01	\$22.42	\$18.89

Between 1989 to 2011, Sacramento collected over \$30 million in linkage fees.⁷³ The following is the current fee schedule per square foot:

Year	Offices	Hotel	R&D	Commercial	Manufacturing	Warehouse
2013	\$2.25	\$2.14	\$1.91	\$1.80	\$1.41	\$0.61-0.82

Housing Trust Funds*

How it works

Housing trust funds are used to generate and assemble financial resources to help housing developers, nonprofit organizations, and local government departments preserve or develop affordable housing for low- and moderate-income households.⁷⁴ Communities that establish new funding streams, such as tax increment financing or linkage fees, may establish a housing trust fund to serve as a repository for the funds and set priorities for expenditures. Housing trust funds can also be financed, among other ways, through general revenue bonds, discretionary appropriations, document recording fees, real estate transfer taxes, taxes from a building improvement district or other special-purpose district, and fees paid in lieu of providing affordable units under an inclusionary zoning policy.

Because they are often funded by non-federal sources, housing trust funds are very flexible, allowing communities to design programs that meet local needs, scaffolding local programs around the core assistance provided through federal programs. Among other purposes, housing trust funds can be used for the preservation, development, and operation of affordable rental and for-sale housing, homebuyer assistance, and the provision of ongoing rental housing subsidies for the lowest-income renters. How the funding can be used and who will benefit from it should be written into the guidelines of the fund.

Where to start

Housing trust funds are generally adopted at the state or local level and administered by state or local housing departments. Funding for a federal housing trust fund was announced in 2014.⁷⁵

Considerations

Practitioners and advocates sometimes distinguish between two types of revenue for housing trust funds. The first type is *dedicated* revenue sources, such as linkage fees, document recording fees, and real estate transfer taxes. Once established, dedicated revenue sources generate funding automatically. The second type is *one-time* revenue sources, such as annual appropriations. These revenue sources require new action by a legislative body each time additional resources are needed. Dedicated sources are often preferred because they are not subject to the uncertainties associated with the annual appropriations process.

Many types of dedicated fees rise and fall with the volume of new development. When growth slows, these funding sources start to dry up, even if the need for affordable housing remains high. To overcome this challenge, it is helpful to have broad political support for the trust fund's activities, and either a diverse set of funding sources or the ability to tap new funding sources as needed.

Housing trust funds require administrative oversight to collect and allocate funding. They are not self-executing. The city or county housing department is often best positioned to administer the funds.

* Per the RWJF county health roadmap: "State and local HTFs appear to help meet low income housing needs, including the needs of the lowest income families." www.countyhealthrankings.org/policies/housing-trust-funds

CASE STUDY

In Boulder, Colorado, the Boulder Community Housing Assistance Program (CHAP) is funded by the housing excise tax, a property tax, and a tax on new residential and commercial construction. Annually, the program has collected \$1.5 to \$2 million, with \$2.3 million anticipated in 2014.^{76,77} The program provides affordable housing assistance to households with incomes between 15 and 60 percent of AMI. Eligible activities for funding include construction, acquisition, and rehabilitation. Both rental and owned properties have binding covenants that place a cap on the incomes of future renters and buyers in order to maintain long-term affordability.

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Incentives

- › Targeting of federal, state, and local housing resources
- › Local and state tax incentives
- › Parking incentives
- › Expedited permitting
- › Impact fees
- › Transfers of development rights



Communities can offer a range of incentives to stimulate development of affordable housing in targeted areas. Voluntary inclusionary housing policies (discussed above) are essentially structured as incentives, generally offering increases in density or variances from other provisions of the zoning code in exchange for the inclusion of affordable units within new development.

This section highlights additional incentives that communities can use to stimulate production of affordable housing. To be effective, incentives need to make a material difference in the bottom line for developers. This can be accomplished through a single large incentive or by combining smaller incentives to achieve a more robust cumulative impact.

Targeting Federal, State, and Local Housing Resources

How it works

The first resources that communities have available to create incentives for affordable housing development are also their bread-and-butter resources for housing preservation. These include HOME and Community Development Block Grants (CDBG), as well as a diverse array of other funding sources, such as general obligation bonds, general revenue, state funding, etc.* In distributing these funds, some communities give equal weight to applications from all parts of the community, while other communities give preference to certain priority neighborhoods. To ensure funds are available to preserve and expand affordable housing in neighborhoods with rising rents, communities will want to develop clear guidelines that prioritize these neighborhoods for funding.

* For more information on these resources, see our [Affordable Housing Primer](#) in the appendix.

Federal and state housing resources are usually designated for households at specific income levels. For example, 90 percent of eligible HOME grant (rental housing and home buying assistance) beneficiaries must have incomes at or below 60 percent of the HUD-adjusted median family income.⁷⁸ Resources generated from local sources can often be used more flexibly to meet the needs of a wider range of households.

Where to start

Decisions on whether and how to target housing resources are made at the local level by city and county housing departments.

Considerations

Federal funding for both the HOME and CDBG programs has been cut in recent years, leading to tighter allocations, forcing communities to make difficult choices, and reducing the impact that can be achieved directly with this funding. Practitioners and advocates can provide critical input into the allocation process for these funds. For example, HUD requires that communities develop a document known as a Consolidated Plan, which specifies how they plan to spend their CDBG and HOME funds (among other things). There are also public engagement requirements associated with this document, meaning that HUD requires communities to reach out to the public at large for feedback and input during the document's development. Given the competing demands for HUD funding, practitioners and advocates should be at the table when local government holds meetings to gather input on how the funding should be allocated.

It is important to recognize that a community's decision to focus a substantial portion of its HUD block grant allocation, as well as other funds available from state and local sources, on specific geographic areas can have an outsized impact on the production of affordable housing in those targeted neighborhoods. This is because federal and local funding often leverage substantial additional funding through the Low-Income Housing Tax Credit (LIHTC) program. In many communities, LIHTC deals require some source of "gap funding" to cover the difference between what a project costs and what the equity raised by the LIHTC will support. Thus, communities can increase their chances to obtain LIHTC resources if they are willing (and able) to make locally controlled funds (including federal block grant funds such as HOME funds) available for gap funding.

CASE STUDY

In its 2014 to 2019 Consolidated Plan, the City of Austin, Texas, includes among its general allocation priorities a focus on supporting "developments in locations where revitalization trends are leading to the displacement of low-income residents." This decision was informed by a 2014 Comprehensive Housing Market Study, which identified as one of four top housing needs the "preservation of affordable housing in neighborhoods where longtime residents are being displaced from redevelopment."⁷⁹

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Should we focus on increasing overall supply or stimulating affordable development?

One question that often arises with incentives is whether they should be focused specifically on encouraging the development of affordable homes or offered more broadly to increase the overall supply of housing. To accommodate increases in demand, there is little doubt that a corresponding increase in supply is needed; otherwise, prices go up. The problem is that in many

high-demand areas, there is little prospect of meeting the demand any time soon, often because of barriers to new development, as well as the limited availability of development sites. So when efforts are made to modestly boost supply, the market produces only the most profitable units, which are not affordable.

The other limitation of a supply-only strategy is that the units produced are not rent-restricted. This means that over time, if demand continues to increase, the rents and/or prices for these units will also go up, undermining long-term

affordability for low- and moderate-income households.

For all these reasons, communities that wish to preserve and expand affordable housing in high-demand areas should focus primarily on developing financial incentives for producing *affordable* units in the targeted neighborhoods, with legally binding restrictions that keep these units affordable over the long term. At the same time, to address overall supply concerns in the broader housing market, communities should focus on reducing barriers to development throughout the region.

Local and State Tax Incentives

How it works

As discussed previously, tax incentives can be used to encourage the preservation of existing affordable housing. In addition, tax incentives can be used to encourage a variety of other housing goals, including the development and maintenance of affordable housing. Common tax incentives include providing a lower property tax rate or freezing a property's assessed value for a period of time after construction or rehabilitation. These policies are sometimes called tax abatements or exemptions. Some states also provide a credit against state income taxes similar to the federal LIHTC. Communities where vacant or underutilized properties persist despite high demand for housing may enact a land value tax, which encourages development by taxing land at a higher rate than the improvements on the land.

Tax incentives are designed to stimulate development but do not necessarily target a particular population. Based on an analysis of need, tax incentive policies should clearly state the requirements a developer needs to meet (including the level of affordability the developer must provide) to receive the incentive.

Where to start

These policies are administered by local and state taxation authorities, often in cooperation with the department of housing.

Considerations

Tax incentives can be used to stimulate many different kinds of development. If the desired outcome is to increase affordable housing development in a specific neighborhood, the policy must explicitly aim the incentive at developers producing affordable units in those targeted neighborhoods. In hot housing markets, it is especially important to include legally binding restrictions that keep the units affordable over the long term.

CASE STUDY

New York City's 421-a tax incentive program provides a partial real estate tax exemption for new construction of multifamily rental housing in Geographic Exclusion Areas (all of Manhattan and parts of the Bronx, Brooklyn, Queens, and Staten Island). The exemption applies to any incremental tax liability resulting from increases in property values due to construction improvements, and it is available for an initial three-year construction period, as well as over a post-construction period of up to 25 years. However, property owners are eligible for the post-construction exemption only if 20 percent of the newly built units are kept affordable to low-income households.⁸⁰

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Parking Incentives

How it works

Local zoning codes often require developers of new housing units to provide a specified minimum number of parking spaces for area residents and for workers and customers of area businesses. These parking spaces can increase the amount of land required, reduce the number of units that can be built on a given parcel, and/or increase the costs of construction, which are often passed on to the homebuyer or renter in the form of higher home purchase prices or rents. At the same time, as public transit use increases, communities tend to need fewer parking spaces than they needed in previous decades. By reducing parking requirements for developments that include affordable housing, localities can decrease production costs (permitting, construction, etc.), allowing the developments to provide more affordable housing. This may be particularly useful in dense, high-cost cities where land prices are very high and account for a large proportion of a development's overall costs.

Parking incentives are designed to stimulate development but do not necessarily target a particular population. Based on an analysis of need, parking incentive policies should clearly state the requirements a developer needs to meet (including the level of affordability the developer must provide) to receive the incentive.

Where to start

These policies are set by local planning commissions or zoning boards.

Considerations

Similar to tax incentives, parking incentives can be used to stimulate different types of development. Therefore, policies must specify who is to benefit from the new units and the duration of affordability required as a condition for obtaining the incentive. Jurisdictions should also consider the ramifications of increasing development without expanding the amount of parking. In many cases, the loss of a small number of parking spaces will not have a major impact on parking availability. However, when density is increasing substantially, parking is already tight, and public transit is not widely available or used, legitimate concerns arise as to whether the parking supply remains sufficient to prevent excessive idling, inconvenient parking, and significantly longer searches for available spaces.

CASE STUDY

In Denver, developers of rental housing who voluntarily agree to set aside at least 10 percent of their units as affordable housing receive a reduction in parking requirements, among other incentives. In King County, Washington, developers receive a 50 percent reduction of on-site parking requirements for each affordable unit.

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Expedited Permitting

How it works

Expedited permitting policies help to reduce costs associated with delays in the processing of permits for the development or redevelopment of a parcel of land. In the world of property development, time is money, and long processes for obtaining building permits, environmental approvals, and zoning variances add significantly to development costs. Planning departments can reduce development costs by adopting clearer and shorter permitting requirements and processes.* Some cities create fast-track permitting programs that allow contractors to apply for permits or pay fees online. Other cities have instituted fast-track programs that target particular types of projects, such as affordable housing development.

Some policies are structured to expedite the permitting of all forms of residential development, while others focus specifically on expediting the process for affordable projects. For the latter, communities should clearly state the requirements the developer needs to meet (including the level of affordability the developer must provide) to receive the incentive.

Communities that choose to expedite the permitting process for all residential development — as opposed to specifically expediting affordable projects — should have a parallel process in place for ensuring a share of new development is affordable. Otherwise, in the neighborhoods that are the focus of this housing guide, the high demand for housing among higher-income households will spur new development that is not necessarily affordable to low- and moderate-income households.

* Communities should also consider revising their zoning processes to reduce the need for variances and/or expedite the process for obtaining one. The delays associated with obtaining zoning variances can also be a significant source of added costs for development.

Where to start

Policies that expedite permitting can be adopted at the state or local level and are typically administered by departments of inspections and permitting and by development review boards.

Considerations

While expedited permitting can reduce costly delays for developers, it also poses a variety of issues for jurisdictions. Particularly for cash-strapped jurisdictions, the time, staffing, and other resources required to create a fast-track process can be costly. In addition, it is important not to give short shrift to health, safety, and environmental reviews. Thoughtful consideration is necessary to balance the need for affordable housing with the need for an orderly and efficient process that includes comprehensive health and safety reviews for new developments.

CASE STUDY

Rhode Island adopted the Expedited Affordable Housing Permitting law in 2009, which grants state agencies the ability to expedite the approval process for affordable housing developments that address critical housing needs. In Pinellas County, Florida, affordable housing development receives priority in the permit review process, with a two-week turnaround. Additional incentives, reviewed on a case-by-case basis, include reduced or waived impact fees, reduced parking requirements, and density bonuses.

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Impact Fees

How it works

Impact fees are one-time charges designed to cover the costs of building infrastructure to support new development, such as water lines, sewer lines, and schools. By reducing or waiving these fees for newly developed affordable housing, localities can provide incentives for developers to provide affordable housing.

Alternatively, or in addition, communities can develop a specific impact fee on any new development that gives rise to a need for additional affordable housing. When applied to commercial or retail development, these fees are often known as linkage fees, which we have addressed separately in the *Revenue Generation* section. These types of specialized impact fees can be assessed on new residential development as well.

The reduction of impact fees can stimulate development, but it does not necessarily benefit a particular population. Based on an analysis of need, incentive policies should clearly state the requirements the developer needs to meet (including the level of affordability the developer must provide) to receive the incentive.

Where to start

Impact fees are assessed at the local level, typically by the same office that issues building permits.

Considerations

Impact fees are a complicated and often controversial topic. The following are the key points to bear in mind:

- Courts generally require that impact fees have a “rational nexus” to the actual impact of development on public facilities or other infrastructure. Therefore, it is important to get legal advice before setting new fees.
- Many communities rely on impact fees to fund necessary infrastructure, including roads, water lines, sewer lines, schools, etc. Any changes to an impact fee policy must take into account the revenue implications for the community.
- One way for a community to reduce barriers to new development in neighborhoods with rising rents is to adopt lower impact fees in areas where existing infrastructure can accommodate new growth and adopt higher impact fees in undeveloped areas. In some ways, this can also provide a helpful check on sprawl.
- If a community is able to absorb the loss of revenue associated with reduced impact fees, this incentive can make the development of affordable rental and for-sale housing significantly more feasible.
- Some communities have used nexus studies to research the impact of new commercial space or market-rate housing development on the demand for affordable housing. Focusing on the so-called “jobs-housing” nexus, these studies estimate the number of affordable units needed to house new low-income households in the context of such development, and they assign a specific impact fee that developers must pay the city to cover the costs associated with the creation of new affordable housing. These fees are then set aside for the city to build affordable housing. (See the discussion above of linkage fees.)

CASE STUDY

Both Albuquerque and Santa Fe, New Mexico, have policies to reduce impact fees for affordable housing. Albuquerque provides partial or complete waivers of impact fees for mixed-income rental housing projects in which 20 to 40 percent of rental units are affordable. Impact fees for mixed-income rental projects located in town centers and along corridors identified for strategic redevelopment are waived completely. Impact fees for projects located elsewhere in the city are waived 60 percent. The Santa Fe Homes Program Ordinance provides affordable housing developers with reductions or waivers of development review fees, capital impact fees, utility expansion fees, and building permit fees.

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Transfer of Development Rights

How it works

A transfer of development rights (TDR) program can generate resources to preserve existing affordable housing. In a TDR program, a “sending site” sells its development rights (e.g., the right to build at all, or the right to build above a certain height) to a “receiving site” where the developer can now build at a higher density or building height than usually permitted by local zoning codes. While often used to preserve open space, this approach has also been used to preserve affordable housing in dense, urban areas experiencing high levels of redevelopment. Affordable housing developments can be “sending sites” that sell their development rights to other sites, thereby raising funds to recapitalize and upgrade their units and preserve long-term affordability.

Based on an analysis of need, TDR programs should clearly state the requirements that the “seller” of development rights needs to meet (including the level of affordability the developer must provide) to receive the incentive.

Where to start

TDR programs are adopted through amendments to local zoning ordinances. In some cases, a special TDR “bank” may be set up to help keep track of the exchanges. The local housing and planning departments may also play a role in implementation of TDR programs.

Considerations

TDR programs create additional flexibility within zoning regulations, but they can be complex to administer. The timelines of the “sending sites” and “receiving sites” may not always align and, as indicated above, the creation of a new entity – a TDR bank – may be needed to record transactions and ensure successful management of the program. The effectiveness of these programs also depends on the strength of the real estate market and the demand for development credits. A market analysis can help to confirm demand for additional density among “receiving sites” and inform program design.⁸¹

CASE STUDY

A TDR program in Seattle has been preserving affordable housing since 1985. Through the program, the city can transfer development rights from low-income housing sites to downtown developments that want more density. Nonprofits sell an affordable housing site’s development rights to the city, and these rights are then “deposited” into a “TDR bank” for downtown developers to purchase. Between 1985 and 2009, the city preserved or rehabilitated approximately 950 affordable housing units with TDR bank funds.

In Virginia, the Arlington County Zoning Ordinance was amended in 2006 to permit the transfer of development rights. TDR has since been used for the purpose of preserving affordable housing, historical properties, and open space. The county has set the goal of preserving 1,540 affordable housing units in the Columbia Park Pike Neighborhoods Special Revitalization District, and TDR will be one policy tool among many to achieve that goal.

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Property Acquisition

- › Using publicly owned land
- › Establishing property acquisition funds



In neighborhoods experiencing increases in rents and home prices, one of the biggest challenges associated with preserving and expanding affordable housing is gaining control of desirable sites for development or redevelopment at affordable prices.

These challenges differ depending on where a neighborhood is on the spectrum of neighborhood change:

- › Early in the trajectory of neighborhood change – when an increase in demand is not yet apparent or has not yet expressed itself in higher rents or land prices – development sites are generally easier to acquire at comparatively affordable prices. The lower prices, however, generally reflect a heightened level of risk, as the potential of the site to achieve full occupancy, or to sell at prices that will generate a profit, is not yet clear. Due to this uncertainty, there is often a lengthy hold period required between the time a property is acquired and the time a property is developed, which can add costs (interest on any loans taken out to purchase the property, plus property taxes) and, in some cases, make it more difficult to use federal funding for the acquisition.
- › By contrast, late in the trajectory of neighborhood change – once an influx of higher-income households has clearly begun and rents and home prices have risen – the challenge is reversed. At this point, prices tend to be high but the risk that a property will not achieve full occupancy is much lower. Easy-to-develop sites are often hard to find, and prices may reflect the prevailing assumption that renters or purchasers will have relatively high incomes.

At this point, developers of affordable housing do not need long-term capital so much as they need flexible capital that can be deployed quickly to compete effectively with private developers offering all-cash deals. They also need financing on affordable terms. To achieve affordable, flexible financing that is quick and easy to deploy, some form of credit enhancement is usually needed from the public or nonprofit sector.

Of course, many neighborhoods fall in between these two extremes. Communities can facilitate the preservation and development of affordable housing by working closely with affordable housing developers to understand the property acquisition challenges they face and help them overcome them.

The following are two approaches that have been used to help developers acquire properties for affordable housing.

Using Publicly Owned Land

How it works

By focusing on expanding affordable housing opportunities on land owned by public agencies within the city – including land owned by public hospital corporations, police and fire departments, school boards, and other administrative entities – communities can avoid paying the high costs of acquiring land in the private market. Some of these sites may have vacant or underutilized sections that can be used for affordable housing, such as a parking lot that is rarely at capacity. In other cases, the city may choose to redevelop land at higher densities, such as redeveloping a one-floor government office into a four-story structure. By redeveloping the property at a higher density, the original purpose can continue to be served while space is made available for affordable or mixed-income development.

In addition to developing affordable housing on land controlled by government agencies, some communities also seek to use tax-delinquent properties as a source of land for affordable housing.

Where to start

Inventories of vacant or surplus publicly owned land are maintained at all levels of government. At the local level, the housing department can develop a process to identify and manage the disposition of publicly owned land for development or redevelopment of affordable housing. Local communities may also amend their comprehensive plans or zoning codes to stipulate that suitable land be prioritized for this purpose. At the state level, legislation can be enacted to give similar preference for development or redevelopment of affordable housing when disposing of surplus state-owned land. The Federal Transportation Administration also has a special “Joint Development” program, which is implemented in conjunction with local transit agencies and facilitates development at, or adjacent to, agency-owned land near public transportation hubs.

Considerations

As the market for housing in target neighborhoods heats up, there are likely to be fewer tax-delinquent properties because new owners purchase any tax-delinquent properties for re-use or redevelopment. Therefore, using tax-delinquent properties for affordable housing may be more feasible closer to the beginning of a neighborhood change cycle than toward the end. There are also a number of challenges associated with using tax-delinquent properties for affordable housing (or other development), including lengthy and complicated tax foreclosure processes and the challenges of assembling small adjacent parcels into larger development sites. Some communities have established land banks to address these challenges.⁸²

CASE STUDY

In Massachusetts, a number of cities and towns, including New Bedford and Lowell, have used former school and municipal buildings for affordable housing. Other towns, such as Needham, have worked in partnership with local developers to develop affordable housing on underutilized sites.⁸³

In King County, Washington, the Surplus Property Program for Affordable Housing identifies surplus properties suitable for affordable home development. Approved in 1996, by 2007, the program had generated 400 new affordable housing units.⁸⁴ Though the county has continued to monitor and evaluate properties, the slower housing market and shortage of capital funding has led the county to postpone issuing requests for development until the housing market improves.⁵³

In San Francisco, the Surplus City Property Ordinance aims to identify surplus and underutilized city-owned properties suitable for affordable housing development. The first priority under the ordinance is to develop housing for people who are homeless and households earning less than 20 percent of AMI.^{85}*

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Property Acquisition Funds

How it works

Property acquisition funds address several factors that prevent nonprofit developers from competing on an equal footing with private developers in the private market.⁸⁶ Unlike market-rate developers, affordable housing developers typically have few sources of available flexible funds with which to purchase property. In addition, public sector funds for affordable housing development usually require a lengthy application and competition process, which makes it hard for nonprofit developers to move quickly to purchase an available parcel.

To address these challenges, some communities have set up funds to facilitate the purchase and holding of properties for affordable housing development. One approach is a revolving loan fund that provides low-interest-rate loans to nonprofit organizations so they can acquire property for development or redevelopment of affordable housing.⁸⁷ Through acquisition funds, affordable developers can access low-interest capital more quickly than through other public sector funding sources.⁸⁷ Funding is typically provided through a combination of sources, including local government, community development financial institutions, philanthropic foundations, banks, and/or other financial institutions.

A second approach is a direct acquisition model in which a single entity purchases and holds land for subsequent development by outside developers. This approach may be particularly helpful when developers need time to raise the funds for an affordable housing project.

* For a discussion of the ordinance, see [Optimizing the Use of Publicly owned Real Estate: Achieving Transparency, Momentum and Accountability](#), a report prepared by the Civil Grand Jury of the City and County of San Francisco, published on May 2013.

Where to Start

Property acquisition funds are typically administered at the city, county, or regional level, often in close consultation with private and nonprofit partners. City or county planning, economic development, and housing and community development departments generally manage property acquisition funds at the local level, while metropolitan planning organizations manage them at the regional level. Several states have also created statewide property acquisition funds, which are administered by the state housing finance agency in partnership with local jurisdictions as well as private-sector supporters.

Considerations

Acquisition funds are often complicated to set up at the scale needed to make a major impact. They require the assembly of multiple financing sources, the negotiation of rules for allocating risk among the entities providing financing, and detailed decisions pertaining to how the fund will operate in practice. On the other hand, they represent a way for local government to tap into substantial private financing to cover the costs of purchasing and holding land for affordable housing development. A key component of an acquisition fund is the willingness of some entity or entities – generally the local government and/or a philanthropic organization or individual – to accept the first risk of loss in the event a loan is not fully repaid or the planned development is not able to be executed (for example, if the necessary affordable housing subsidies cannot be obtained). This provides a level of comfort that encourages private sector funders to also extend financing. The acquisition fund also requires a highly responsible administrator, such as an individual or organizational entity, with a strong capacity to both manage the loans issued and judge the soundness of proposed uses of the fund.

CASE STUDY

The New York City Acquisition Fund provides an example of how an acquisition fund can provide support for affordable housing development in a highly competitive housing market. To help level the playing field with market-rate developers, the fund makes up to \$190 million in loans available for acquisition and predevelopment financing, for up to three years, to developers of affordable housing through participating banks. These institutions are protected by a \$40 million guarantee pool that “consists of \$8 million in Battery Park City Authority revenues and \$32 million from various foundations, including Ford Foundation, Robin Hood Foundation, Heron Foundation, MacArthur Foundation, Rockefeller Foundation, Starr Foundation, New York Community Trust, Gimbel Foundation, [and] Open Society Institute, among others.”⁸⁸

The Bay Area Transit-Oriented Affordable Housing Fund is a \$50 million fund managed by the Low-Income Investment Fund, a community development financial institution (CDFI). The fund has a mix of loans from two senior lenders (Citi Community Capital and Morgan Stanley), six CDFIs, and three foundations acting as subordinate lenders, anchored by \$10 million in seed funding from the Metropolitan Transit Commission (the area’s transportation agency and metropolitan planning organization) standing in first loss position. It offers five different loan products, allowing applicants to borrow up to \$7.5 million for a maximum of seven years. Though 85 percent of the fund is used to support the

production and preservation of affordable housing, up to 15 percent of the fund is set aside for the development of neighborhood amenities, including community facilities, health clinics, retail establishments, and grocery stores.⁸⁹

The Denver (TOD) Fund is an example of the alternative model in which a single entity, the Urban Land Conservancy (ULC), purchases and holds property for subsequent development. It was established to purchase key sites for the creation and preservation of more than 2,000 affordable housing units in “current and future transit corridors” in and around Denver.⁹⁰ This will allow for the acquisition and holding of strategic real estate for up to five years, in anticipation of the development of transit nodes that will provide access to railways and high-frequency bus corridors. Investors of the fund include the ULC, Enterprise Community Partners, the City of Denver, and the County of Denver. As of 2013, the \$15 million fund had preserved and created 626 affordable homes. Plans are under way to expand the fund to \$30 million in total loan capital.⁹¹



Appendix: The Affordable Housing Primer

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The world of affordable housing policy is laden with its own specialized technical jargon, rules, and funding streams, and it can be quite complicated to navigate. To help readers understand basic terms and concepts related to affordable housing, we address three key basic questions:

- › What is “affordable housing” and who needs it?
- › What are the different types of affordable housing?
- › How is affordable housing funded?

Summary of Key Points

- › In housing policy circles, the term “affordable housing” often refers to housing that uses some form of public assistance to support individuals or families who lack the means to pay for the market-rate (or the going price) of housing in their community. However, much of the housing stock affordable to low-income families is privately owned without a housing subsidy. So the term “affordable housing” can also be used to describe the broader universe of housing affordable to low- and moderate-income households, including housing with and without government subsidies.
- › The general rule of thumb is that housing is considered affordable if a household pays 30 percent or less of its income toward housing costs.⁹² (This definition has some limitations that we discuss below.)
- › Everyone needs housing they can afford. Communities should focus on ensuring they provide a full range of housing options, including an adequate supply of housing at all price points.
- › Rather than focusing first on what can be done within each of the federal funding streams for housing, we recommend that communities take a step back and work to develop a cross-cutting housing strategy that takes advantage of the full array of available policy levers and funding streams.

What Is “Affordable Housing” and Who Needs It?

These are important questions that each community will need to consider in order to develop an effective local housing strategy. Unfortunately, these questions can be difficult to answer and even contentious as they often arise in the context of a political debate about how to spend scarce public resources. To navigate these questions successfully, we suggest bearing in mind several basic principles:

- *Everyone* needs housing they can afford, and a well-functioning housing market ought to be able to provide appropriate options for people of all income levels. Unfortunately, the private market on its own does a much better job of providing affordable options for higher-income households than for low- and moderate-income households. The inability of the market to supply safe and affordable housing options for lower-income households due to the high costs of constructing and operating housing is the reason why government involvement is needed.
- Housing costs and conditions vary substantially from community to community and often from neighborhood to neighborhood. To ensure that households of all incomes can afford to live in a particular neighborhood of interest, communities should focus on understanding the dynamics of housing costs in that neighborhood and develop customized solutions that fit the neighborhoods’ needs.
- In spending federal and state resources, local communities will need to follow federal and state regulations regarding who is eligible for housing assistance and who has priority for assistance. However, localities have greater flexibility to use local government resources to meet the housing needs of other households also experiencing challenges affording their housing costs.

The discussion below provides background on our recommended approach for defining affordable housing and determining who needs it.

In most metropolitan areas, the costs of constructing and operating housing makes it difficult or impossible for the private market to supply safe, decent, and affordable housing for people at the very lowest income levels. But housing markets, from one community to the next, differ greatly in whether they can supply quality housing affordable to households with somewhat higher incomes. In some markets, a household with an income of 50 percent of the area median income* (AMI) can find a rental unit of decent quality at an affordable rent. In other markets, however, that household would need a publicly funded subsidy to afford their housing costs. In the highest-cost markets, even households with incomes at or even somewhat above the median may struggle to afford housing at a reasonable level. This may reduce households’ ability to pay for other basic necessities, such as food, education, and health care.

* “Area median income” is a construct that Congress created as a guideline for determining eligibility and targeting levels for different federal housing programs. Unlike the federal poverty standard, area median income has the benefit of being adjusted to reflect differences in incomes between metro areas, which often correlate with variations in housing costs. For more information see the section *Classifying Households by Income in HUD Housing Programs*, below.

There are a number of methods for determining whether a household can afford its housing costs. From an analytical perspective, one of the stronger approaches is the “shelter poverty” approach.⁹³ Under this approach, you first determine how much money the household needs to meet basic expenses for food, health care, childcare, etc. — everything but housing and utilities.* After subtracting this amount from the household’s after-tax income (which includes tax benefits such as the Earned Income Tax Credit), you are left with the amount the household has available to pay for its housing costs. If this amount is lower than the household’s actual housing costs, the household is considered “shelter poor,” or in more current parlance, to have a “housing cost burden.”

However, this approach has not generally caught on in policy circles due to the difficulties involved in determining households’ expenses for basic needs, which vary by household size, location, the age of one’s children, etc., as well as challenges associated with estimating after-tax income.** In its place, Congress, HUD, and many public agencies focus on the share of income that a household spends on rent and utilities. Under this approach, housing is considered affordable if it consumes no more than 30 percent of a household’s pre-tax income. Households that spend between 30 and 50 percent of their pre-tax income for housing are considered to have a “moderate” housing cost burden. Households that spend more than half their pre-tax income on housing are considered to have a “severe” housing cost burden.

While much easier to operationalize, this approach has the drawback of suggesting that someone making \$5,000 per year and someone making \$200,000 per year can each afford to spend the same percentage of income on housing — an assumption of questionable validity. Nevertheless, it is the approach most widely used for estimating housing cost burdens. The 30 percent threshold is based on the federal standard used to set rents for low-income households receiving federal rental assistance through such programs as public housing and the housing choice voucher program. Households in those programs are generally expected to contribute 30 percent of their adjusted income to rent and utilities.***

Given that households of all incomes ultimately need housing they can afford, the wide variation in housing affordability levels from one community to the next, and the lack of precision inherent in standard housing affordability guidelines, we recommend that communities avoid a narrow focus on producing housing at one specific rent level and instead focus on ensuring the availability of quality housing at a wide range of price points to meet the full continuum of a community’s needs. Communities will want to consider what housing costs the market is able to address on its own without public subsidy (often through older housing that has filtered down in cost) and then develop a series of public policies to ensure lower-cost housing of decent quality is available at a range of rent and home price levels.

* In housing policy discussions, rent and utilities are generally treated together as “housing costs” because some rents include utilities and so it is often impossible to isolate the respective costs of each component of the households’ housing costs.

** Much of the information needed to operationalize a shelter poverty approach has now been compiled by Wider Opportunities for Women through their economic security project. Their [research](#) provides estimates of the basic costs of living in different communities.

*** “Adjusted income” is a construct developed by Congress for adjusting household income in HUD rental assistance programs to reflect certain deductions or adjustments, such as for medical expenses, childcare expenses, etc.

In developing a local housing strategy, it will be important for communities to be aware that different federal and state housing programs have different rules for determining who is eligible and who has priority for limited resources. Communities will need to adhere to these rules in spending federal and state resources, but they should be aware that they generally have greater flexibility to utilize local government resources to meet their housing needs. Some communities use local resources to serve households whose incomes may be somewhat above the eligibility or income-targeting threshold of a particular federal program but nevertheless have difficulty affording housing without assistance. Other communities choose to focus local resources on the lowest-income households that have the most severe housing needs. This is a policy decision that local communities can make based on local circumstances.

What Are the Different Types of Affordable Housing?

Affordable housing can take a number of different forms. In some cases, specific housing units are made affordable to low-income households through a government subsidy. For example:

- **Public housing** units are built with government subsidies and owned and operated by local public housing agencies under the federally funded public housing program. Some states also have state-funded public housing programs.
- **Subsidized housing** units are owned and operated by a private owner who receives a subsidy in exchange for renting to low- or moderate-income people. There are two main forms of subsidies: *capital subsidies* that fund the initial construction or major renovation of a multifamily rental development and *operating subsidies* that fund ongoing operations. The most common capital subsidy is provided through the Low-Income Housing Tax Credit (LIHTC) program. The most common operating subsidy is provided through the Project-Based Section 8 program. In some cases, both types of subsidies are combined in a single development, while in other cases, a development may have only one or the other.

Other terms for subsidized housing include rent-restricted housing, assisted housing, income-restricted housing, or simply affordable housing. These terms may have slight variations in meaning, depending on local usage.

In addition to providing subsidies to make specific housing units affordable, the federal government provides “housing choice vouchers” that help program participants afford the rent of privately owned units that participants locate in the private market:

- **Housing choice vouchers** (also known as Section 8 vouchers or tenant-based rental assistance since the subsidy travels with tenant) are operating subsidies administered by local and state public housing agencies. Program administrators have the option of attaching (or “project-basing”) up to 20 percent of their housing vouchers to specific units.*

* The reference to the federal poverty line is new. It was adopted by HUD on June 25, 2014, based on direction from Congress.

Another form of affordable housing does not involve explicit government housing subsidies at all:

➤ **Privately owned unsubsidized units** make up most of the nation’s affordable rental housing stock – generally older units whose rents have remained flat or even decreased over time as newer units with more amenities have come online.³⁰ These units, sometimes known as market-rate affordable units, are an important part of the supply of housing in many metropolitan areas. However, in neighborhoods experiencing high demand for housing – the types of neighborhoods this guide addresses – the affordability of these unsubsidized units is often at risk. Without binding legal covenants to ensure the unit is affordable to low-income renters, owners are often free to raise rents, which they can and will do if there is sufficient demand for their housing.

Classifying Households by Income in HUD Housing Programs

HUD uses a number of different labels to categorize households based on their income relative to the area median income (AMI). These income limits are used by HUD to determine eligibility and priority for a number of different housing programs. HUD’s rental assistance programs use three different categories:

- Extremely low-income households are households that have incomes at or below the higher of: 30 percent of AMI or the federal poverty line.*
- Very low-income households have incomes at or below 50 percent of AMI

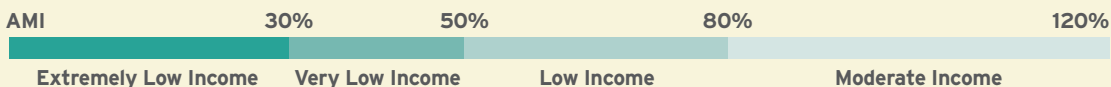
➤ Low-income households have incomes at or below 80 percent of AMI.

By statute, these categories are overlapping. However, it is often more useful to eliminate the overlap and create a series of discrete categories that allow for a more productive policy discussion focused on meeting the housing needs of households in each category. In some cases, an additional category of “moderate-income” is added, as shown below. In this chart, the numbers represent multiples of AMI.

One thing to keep in mind: a number of related programs use similar terminology in slightly different ways. For example, in the Community Development Block Grant program, a low-income household has an income at or below 50 percent

of AMI, and a moderate-income household has an income between 50 percent and 80 percent of AMI. The Community Reinvestment Act likewise uses low-income to mean below 50 percent of AMI and moderate-income to mean between 50 and 80 percent of AMI, often referring to the entire population below 80 percent of AMI as “low and moderate income” or “LMI.” Practitioners and advocates should be aware of these distinctions.

To find the income limits for your community, visit www.huduser.org and select “income limits” from the quick links box or the Data Sets menu.



* The reference to the federal poverty line is new. It was adopted by HUD on June 25, 2014, based on direction from Congress.

* Residents of units funded through project-based housing choice vouchers generally have the ability to request a tenant-based housing voucher should they decide they wish to move after being in the unit for a year or more. By contrast, residents living in a development that has an older form of project-based Section 8 subsidy do not have this right.

How Is Affordable Housing Funded?

If you work on affordable housing in your local jurisdiction, you may be familiar with the alphabet soup of federal programs used to fund the construction and maintenance of affordable units. Some of these funding sources, such as two block grants from HUD, the HOME Investments Partnerships Program, and the Community Development Block Grant (CDBG) program, are flexible enough to be used in different ways. For example, they can be used to fund the development of subsidized rental housing or to bring homeownership costs down to levels affordable to lower-income households. Most other funding sources can be used only for a specific type of housing.

The previous section introduced the four main federal funding streams dedicated to making rental housing affordable for low-income households: LIHTC, Section 8, Public Housing, and Housing Choice Vouchers. Of these, only the LIHTC provides a capital subsidy that can fund new development or substantial rehabilitation. The other three programs – Public Housing, Project-based Section 8, and Housing Choice Vouchers – provide operating subsidies that help more than 4.5 million households pay for housing costs above and beyond what the resident can afford to pay.* Additionally, several other federal housing programs may be of interest to practitioners and advocates because they serve specialized populations, such as the homeless, elderly, veterans, and people with disabilities, including the Section 202 Supportive Housing Program for the Elderly and the Section 811 Supportive Housing Program for Persons with Disabilities.**

Rather than focusing first on what can be done within each of the federal funding streams, we recommend that communities take a step back and work to develop a cross-cutting housing strategy that takes advantage of the full array of available policy levers and funding streams.

Although it is important to be aware of these federal funding streams, it is also important not to be overly constrained by the programmatic structure the federal government has adopted to finance affordable housing. Different actors are generally responsible for each of these funding streams, so policy decisions regarding these resources often get made in silos, independent of any broader strategy. Moreover, while these federal funding streams often represent the dominant focus of many in the housing world, they are in fact only a part of the larger array of tools and resources available to local communities seeking to meet locally defined housing needs.

Rather than focusing first on what can be done within each of the federal funding streams, we recommend that communities take a step back and work to develop a cross-cutting housing strategy that takes advantage of the full array of available policy levers and funding streams. Starting with a clearly defined overarching goal – for example, to ensure that households of all incomes can afford to live in a particular neighborhood – communities should identify specific strategies for achieving this goal and then identify policies and programs that can help advance this goal. Many of these programs will inevitably draw on federal housing subsidies, but they will ultimately be more effective when linked together with other complementary policies and programs rather than adopted on a stand-alone basis.

* There is a capital component to public housing funding, but it mainly goes to meet the backlog of major repair and replacement needs in existing public housing developments.

** For information on these and other federal housing programs, see the [Advocates Guide](#) published by the National Low Income Housing Coalition.

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