

Three Rules for Good IZ Law

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What's Inclusionary Zoning (IZ)?

- By state or local law, builders must include modest percentage of affordable housing in new, market-rate developments.
- Inclusionary zoning usually is only a partial solution to affordable housing needs; amount of inclusionary housing is limited by market economics to what builders can provide while protecting profitability.

Q: Where does IZ work?

A: In high-demand markets where builders have incentive to make maximum use of high-cost land

Affordability in 150 USA metro areas

metro area	index	ranking
Detroit	138	35 th
Minneapolis	101	78 th
Chicago	79	110 th
Portland	71	121 st
Washington DC	63	129 th
Seattle	59	133 rd
Toronto	54	!!!
New York	39	144 th
San Jose	38	145 th
Vancouver	37	!!!
San Francisco	35	146 th
Los Angeles	31	150 th

THREE RULES FOR GOOD IZ LAWS

1. FOCUS ON “WORKFORCE” HOUSING
2. WORK WITH HOMEBUILDERS/ DEVELOPERS FOR
“WIN/WIN” LAW
3. MANDATORY = AUTOMATIC RESULTS/OFFSETS

Affordable Housing for *All* the Workforce

(Metro Toronto “AMI” = \$75,000)

\$82,501-\$90,000 (111%-120% AMI)

school principals, lawyers

\$75,001-\$82,500 (101%-110% AMI)

engineers, architects, psychologists

\$67,501-\$75,000 (91%-100% AMI)

systems analysts, dental hygienists, construction managers

\$60,001-\$67,500 (81%-90% AMI)

registered nurses, loan officers, accountants & auditors,
counselors

Affordable Housing for *All* the Workforce

\$52,501-\$60,000 (71%-80% AMI)

building inspectors, librarians, police officers, high school teachers,
medical & radiological techs

\$45,001-\$52,500 (61%-70% AMI)

postal workers, firefighters, plumbers, elementary school teachers,
paralegals,

\$37,501 - \$45,000 (51%-60% AMI)

electricians, LPNs, HVAC mechanics, legal secretaries, exec
sec'y/AAs, social workers, heavy truck drivers, mechanics, dental
Assistants,

In USA, eligibility for government housing assistance
generally starts below 50% AMI

Affordable Housing for *All* the Workforce

\$30,001-\$37,500 (41%-50% AMI)

machinists, paramedics, roofers, bookkeeping clerks, carpenters,
painters, butchers, light truck drivers

\$22,501-\$30,000 (31%-40% AMI)

security guards, secretaries, bus drivers, sales clerks, hairdressers,
medical assistants, tellers, receptionists, gardeners, laborers, nursing
aides, preschool teachers

<\$20,650 (USA poverty level)

telemarketers, cooks, sewing machine operators, janitors, taxi drivers, home health
aides, parking lot attendants, desk clerks, laundry workers,
bartenders, child care workers, dishwashers, waiters/waitresses, hosts/hostesses

**ANYONE GOOD ENOUGH TO WORK
HERE IS GOOD
ENOUGH TO LIVE HERE**

WORK WITH HOMEBUILDERS/ DEVELOPERS FOR “WIN/WIN” IZ LAW

**Balance need for workforce housing with
protecting profitability**

protecting builder's profitability

What does “protecting builder’s profitability” mean?*

1. Minimally, the builder’s customary profit from the overall development should not be reduced by the inclusionary requirements over what it would have been without any inclusionary requirement;
2. Preferably, the builder’s customary profit from the overall development should be enhanced by additional profits from the sale of additional market-rate units generated by the density bonus that should automatically accompany inclusionary requirements; and
3. Optimally, the builder’s customary profit from the overall development should be further enhanced not only by additional profits from the sale of additional market-rate units generated by the density bonus by also by profits on the sale of the inclusionary units themselves (that are also covered by the density bonus).

*for land already zoned for residential development

FINDING FAIR BALANCE BETWEEN AFFORDABILITY AND PROFITABILITY REQUIRES CAREFUL ANALYSIS OF

1. HOUSING NEEDS,
2. BUILDER'S COSTS,
3. AND MIX OF "COST-OFFSETS" THAT CITY CAN OFFER

**THAT WILL BE GREATEST CHALLENGE FOR
TORONTO AREA OFFICIALS, BUILDERS &
COMMUNITY GROUPS.**

Achieving more workforce housing is governed by land Economics

three types of projects:

- major public subsidy
- major rezoning
- already residentially zoned land

major public subsidy

- free or cut-rate land
- tax abatement
- cash subsidies
- public infrastructure

pct set-aside & income targets at levels that still yield profitable project

major upzoning

- agricultural to residential;
- under-utilized commercial/ industrial to mixed-use/ residential; or
- low-density residential to higher-density residential

pct set-aside & income targets may vary depending on degree of increased residential capacity – must still be profitable

**already residentially-
zoned land**

MUST “hold harmless” builder’s profitability

- by density bonuses greater than pct set-aside,
and/or
- various other cost- offsets

**pct set-aside & income targets constrained by project’s
economics**

Density Bonus

Montgomery County, MD 22% density bonus for 15% IZ set-aside

example: plot zoned for 100 units

1. law requires 15% set-aside
2. density bonus automatically permits 122 units
3. 18 will be IZ units ($15\% \times 100 = 15$) + ($15\% \times 22$ bonus units = 3) = 18
4. builder gets 104 market-rate units ($122 - 18$ IZ units = 104) rather than 100 market-rate units (added profits from 4 bonus units plus added profits from *zero* land cost for bonus units)

Franciscus Homes ADU pro forma

conventional: 100 market rate @\$400,000

sales revenue	\$40,000,000
total cost	- <u>\$36,000,000</u>
net profit	\$4,000,000

inclusionary:	130 total units
market rate	108 @\$400,000
workforce ADUs	22 @160,000

sales revenue (market)	\$43,200,000
sales revenue (ADUs)	<u>\$3,520,000</u>
total sales revenue	\$46,720,000

cost (market)	\$38,240,000
cost (ADUs)	<u>\$3,240,000</u>
total cost	\$41,480,000

net profit from 130 mixed-income	\$5,240,000
net profit from 100 conventional	- <u>\$4,000,000</u>
increased profit: ADU plan	\$1,240,000

**“Give me the density,
and I can produce
workforce
housing.”**

**--- Frank Spadea,
CEO, Franciscus Homes
Virginia Beach, Virginia**

**MANDATORY
IZ LAW = AUTOMATIC RESULTS
& AUTOMATIC
“AS OF RIGHT” DENSITY BONUS/
OTHER COST OFFSETS**

MANDATORY OR VOLUNTARY?

“While the success of voluntary programs is contingent on the availability of subsidies and aggressive staff implementation, mandatory programs have produced more affordable units overall, and more units for a wider range of income levels within the affordable spectrum. Not only are more municipalities establishing mandatory inclusionary zoning programs, many municipalities with experience implementing voluntary ordinances are switching to mandatory ordinances. Their uniform and predictable nature, coupled with their documented effectiveness at producing more affordable units, has made mandatory programs overwhelmingly more popular.”¹

1. Nicholas J. Brunick “Voluntary or Mandatory Inclusionary Housing? Production, Predictability, and Enforcement,” *Business and Professional People in the Public Interest* (November 2003)

HOMEBUILDER ASSOCIATION OPPOSITION GENERALLY IDEOLOGICAL*

(*though sometimes valid opposition to bad IZ law)

Progressive homebuilders *for* mandatory IZ laws

- **predictable business climate**
- **controversy-free implementation**
- **automatic cost offsets**
- **opportunity for greater profits**
- **“build better communities”**

WORK WITH HOMEBUILDERS/ DEVELOPERS FOR “WIN/WIN” IZ LAW

**“A bad deal for one is ultimately
a bad deal for everyone.”**



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