

ON COMMON GROUND:

**JOINT PRINCIPLES ON
INCLUSIONARY HOUSING POLICIES**

JULY 2005

A Joint Policy Brief by



THE NON-PROFIT HOUSING ASSOCIATION OF NORTHERN CALIFORNIA



POLICY



THE NON-PROFIT HOUSING ASSOCIATION OF NORTHERN CALIFORNIA



Dear Affordable Housing Supporters,

In 2004, the Non-Profit Housing Association of Northern California (NPH) and the Home Builders Association of Northern California (HBANC) began a series of conversations about inclusionary housing in the Bay Area. Inclusionary housing programs require or encourage market-rate housing developments to include a percentage of homes affordable to lower- and moderate-income households. Although our organizations hold some differing opinions on the merits of inclusionary housing, we realized that we shared some important views on how to create more affordable housing at the local level.

NPH and HBANC firmly believe that increasing the housing supply is critical to addressing the affordable housing crisis that affects everyone from fixed-income seniors to young families. NPH and the HBANC understand it will take a much broader commitment from the public and private sectors to make housing affordable to individuals and households with modest incomes. Frankly, current efforts in our region are not enough. We are going to have to dramatically increase both the supply of all types of housing and our investment in affordable housing to have a real impact.

At its heart, this joint policy statement reflects our shared belief that we need to maximize the limited resources that are currently available to create affordable housing. In terms of inclusionary housing, this means the traditional way of implementing the policy is often not the most effective in producing the most homes at the most affordable prices. In fact, flexibility and adaptation to local market factors are the keys to a more effective and successful program. Based on that premise, the NPH and HBANC offer here some key principles and recommendations on inclusionary housing programs for consideration by jurisdictions that currently have policies as well as those that are in the process of adopting a policy.

Together, NPH and HBANC look forward to working with both the public and private sectors to advance this dialogue beyond the Bay Area and towards a real solution to the affordable housing crisis in California and around the country.

Sincerely,

Dianne J. Spaulding
Executive Director, NPH

Joseph Perkins
President and CEO, HBANC

KEY PRINCIPLES OF INCLUSIONARY HOUSING

In its most basic terms, inclusionary housing requires or encourages market-rate housing developments to include a percentage (usually 10 to 20 percent) of homes affordable to lower- and moderate-income households. Inclusionary policies take the form of either a local ordinance, a General Plan policy, or a permit approvals process that requires or rewards affordable housing projects. While NPH and HBANC hold differing views on the merits of inclusionary housing, the following are key principles upon which our organizations agree:

- Providing an adequate supply of housing is a societal responsibility.
- Local communities with inclusionary housing programs have a responsibility to contribute tangible and substantial resources so that the cost of providing affordable housing is spread fairly across the community.
- Affordable housing policies that maximize resources by providing more housing opportunities or deeper levels of affordability at the same or less cost should be encouraged.
- Traditional inclusionary housing policies that require the development of “like-for-like” units distributed uniformly throughout the market-rate development are often not the most effective or efficient way of providing affordable housing.
- To increase effectiveness and efficiency, inclusionary housing programs should provide flexibility and allow a range of alternative methods of providing affordable units.



RECOMMENDATIONS FOR JURISDICTIONS WITH INCLUSIONARY HOUSING PROGRAMS

Market-rate builders should be provided with a choice of several options for producing the affordable homes. The builder should not be required to demonstrate the financial infeasibility of traditional inclusionary requirements in order to use one of these options and, so long as the relevant criteria for a particular option are met, the builder should not be required to obtain approval by the local jurisdiction on a case-by-case basis.

HOUSING TYPE AND DESIGN FLEXIBILITY

Market-rate builders should be able to satisfy an inclusionary requirement by providing alternative for-sale housing types, such as duets, townhouses, or condominiums. Builders should have the option of clustering the units onsite or building offsite (see *Offsite Construction*, page 4).

Market-rate builders should be able to satisfy an inclusionary requirement by providing rental housing, provided that the project meets the inclusionary percentage and income targets applicable to rental projects. Again, the builder should have the option of clustering the units on the project site or providing for the units offsite (see *Offsite Construction*, below).

LAND DEDICATION

Market-rate builders should be able to satisfy an inclusionary requirement by donating land to the local government or a non-profit housing developer, subject to the following:

- The builder and city should ensure that through an upzoning or density bonus the dedicated site will accommodate more affordable units or units at a deeper affordability level than the inclusionary requirement would have provided;
- Where rental housing is to be constructed on the dedicated site, the site should accommodate at least 40 affordable units;
- If the dedicated site is such that it requires “extra” construction costs—such as the need to do podium development or steel construction—in order to accommodate the required number of units, the market-rate builder should bear the extra cost, including any offsite improvements, environmental remediation or provision of utilities. In most other situations, the land dedication itself will satisfy the inclusionary requirement;
- The dedicated site is located within the same jurisdiction as the project or within a defined subregion;
- The dedicated site should have all land-use entitlements secured prior to completion of the market-rate units. If the local jurisdiction unreasonably refuses to approve the necessary entitlements, the builder should be able to pay in-lieu fees.

LAND DEDICATION AT WORK:

At Corona Ranch in Petaluma, CA, the market-rate builder provided land to Eden Housing instead of directly developing the inclusionary homes, making it possible to create 74 apartments affordable to families earning below 60 percent of area median income (\$28,000- \$53,000), offering rents ranging from \$427 to \$861 per month (1BR-4BR).



OFFSITE CONSTRUCTION

Market-rate builders should be able to choose to satisfy an inclusionary requirement by providing for the units to be constructed outside the project location, subject to the following:

- The offsite location is either comparable to the project site or will result in either greater levels of affordability or a greater number of affordable units than the inclusionary requirement would have provided;
- The affordable units should be developed concurrently with the market-rate homes.

POOLING AND CREDIT TRANSFERS

- Two or more market-rate builders should be able to pool resources to satisfy their inclusionary requirement through a single affordable housing project;
- Market-rate builders that build “extra” affordable housing units (i.e., more than required by the inclusionary ordinance) should be able to use the additional units as credits for meeting future inclusionary requirements in the jurisdiction or a defined subregion;
- Market-rate builders that build “extra” affordable housing units should be able to sell the additional units as credits to other builders in the same jurisdiction or a defined subregion;
- The “extra” units should be built before they can be treated as credits;
- Non-profit builders should also be able to sell credits to market-rate builders for projects and/or units that are not being funded by the local government. The affordable homes should be entitled before or concurrently with the market-rate development acquiring the credits;
- Non-profit builders should be able to acquire and improve existing market-rate developments and restrict future rents to very-low income households and sell the units as credits to other builders in the same jurisdiction or a defined subregion. This option should only be allowed if: a) households served are at or below 50 percent of median income; b) the property undergoes extensive renovations; c) number of units acquired and renovated is at least double that of the standard inclusionary requirement; d) affordability is guaranteed for a period of at least 55 years; and e) tenant relocation is appropriately addressed.



OFFSITE CONSTRUCTION AT WORK:

Villa Loma Apartments was made possible because the City of Carlsbad, CA allowed the homebuilder to partner with the non-profit BRIDGE Housing to develop the inclusionary homes offsite, but near the market-rate homes. BRIDGE Housing created 1, 2, 3 and 4 bedroom apartments for 344 households earning at or below 50 and 60 percent of the area median income.

IN-LIEU FEES AT WORK:

At Old Elm Village, the City of Petaluma provided non-profit Burbank Housing Development Corporation with financing made possible by in-lieu fees gathered from various market-rate developments. It resulted in deeper affordability than required by the ordinance. Old Elm Village provides 87 affordable homes ranging from studios to 4-bedroom duplex town-houses for a mix of households earning 30, 40, 50, 60, and 70 percent of area median income, affordable to single persons with incomes as low as \$13,000 all the way up to families of six with incomes of about \$59,000. It incorporates a belt of commercial space and two-thirds of the space is devoted to a subsidized child care facility serving families from Old Elm and the surrounding neighborhood.



IN-LIEU FEES

Market-rate builders of projects with 50 units or fewer should be able to choose to satisfy an inclusionary requirement by paying a fee in lieu of directly developing the units. This option should be available to the developer without having to demonstrate that other options are infeasible.*

RECOMMENDED LOCAL COMMUNITY CONTRIBUTIONS

Local governments fulfill a crucial role in the creation of affordable housing. Below are some key actions that local governments should take to demonstrate a broader commitment to addressing the affordable housing shortage.

1. Funding

- Make consistent efforts to pass local affordable housing assistance bonds or other measures to meet the existing community’s fair share of the burden of providing affordable housing.
- Either waive development impact fees and processing fees for inclusionary units or pay for them through discretionary local funds such as redevelopment funds or the general fund.

* HBANC and NPH do not have a common position on in lieu fees for projects with more than 50 units.

- Where a redevelopment agency exists, increase to at least 50 percent the tax increment devoted to affordable housing programs. (Current law requires a 20 percent low- to moderate-income set-aside for housing.)

2. Zoning

- Provide at least one density bonus for each unit of affordable housing required.
- Exempt inclusionary units from building permit caps and growth allocation processes.
- Proactively “pre-entitle” (general plan and zoning) the sites identified in the housing element as affordable housing sites.
- Make appropriate surplus publicly owned land available for affordable housing.

3. Program Administration

- Local governments should provide a dedicated staff and budget to administer the program or contract with a competent entity to do so.
- This responsibility includes up-front assistance to homebuilders and prospective buyers/renters in the sales/rental process as well as long-term monitoring of the inclusionary homes.
- In the case of for-sale inclusionary units, in which the developer makes a good faith effort to sell the unit but it remains unsold after 90 days, the local government should either: a) purchase the unit at the restricted price and take over marketing; or b) give permission to sell the unit at market-rate and capture the difference. For option A, the local government must close on the unit within 120 days from completion. For option B, the program should be structured so that there will be an incentive to obtain true market value for the unit.
- The cost of program administration should not come from fees or other exactions imposed on builders.

CONCLUSION

Throughout California, public officials and private citizens are struggling to find ways to address the affordable housing crisis. Together, NPH and HBANC want to ensure that the dialogue about solutions is being informed by a set of principles effective and efficient at shaping public policies that will work for builders, cities and residents. California has long led the nation in innovative approaches to addressing the affordable housing crisis, and, by working together, NPH and HBANC believe that we can find common ground to help solve the problem in the near future.

ACKNOWLEDGMENTS

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About NPH

Since 1979, the Non-Profit Housing Association of Northern California (NPH) has worked to advance affordable housing as the foundation for thriving individuals, families and neighborhoods.

As the collective voice of those who support, build, finance and manage affordable housing, NPH promotes the proven methods of the non-profit sector and focuses government policy on housing solutions.

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About HBANC

The Home Builders Association of Northern California (HBANC) is a professional association comprised of home builders, developers, trade contractors, suppliers, and related industry specialists who are dedicated to the advancement of the home building industry in the Bay Area.

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