

## Innovative Housing Strategies

### Key Issues Affecting Housing Production

- Developing affordable housing in areas that contain viable economic opportunities but also rapidly appreciating real estate values and construction and labor costs
- Acquiring land for affordable housing development
- Attaining capital to fund projects
- Insufficient community support or political will to allow higher residential densities and approve affordable housing developments

### 1. Success Factors that Contribute to Creation of Affordable Housing

Finding innovative solutions to create an environment *that fosters* sustainable affordable housing opportunities requires an integrated, tailored, and localized approach. Commonly, cities utilize practices from successful case studies from peer cities. In the article “Critical Success Factors (CSFs) for Sustainable Affordable Housing,”<sup>1</sup> researchers examine practices that lead to the creation of affordable housing. Critical success factors include:

- Access to low-interest housing loans to developers
- Mixed-use development approaches
- Linking commercial development approval to funding for affordable housing
- Stable macro-economic system
- Effective private sector participation
- Incentives for developers to include affordable housing/sustainable designs
- Governments providing guarantees to developers
- Improved supply of low-cost developed land by government
- Political will and commitment to affordable housing
- Stable political system
- Formulation of sound housing policies
- Governments' provision of housing subsidies to households
- Good location for housing projects
- Adequate accessibility to social amenities
- Policy or program for mandatory inclusion of affordable units in developers' projects
- Adaptable housing design and construction
- Transparency in housing allocation
- Monitoring conditions/performance of completed houses
- High-density affordable housing development
- Increase tax rate to discourage long holding period of vacant land
- Adequate infrastructure supply by government
- Compliance with quality targets
- Adherence to project schedule
- Compliance with project budget
- Good coordination among project participants
- Sufficient staffing of public housing agencies
- Speculative measures on property sales through taxes
- Taxation on property or capital gains for housing supply
- Time limited planning approval/bonuses on land development

<sup>1</sup> Michael Atafo Adabre, Albert P.C. Chan. “Critical Success Factors (CSFs) for Sustainable Affordable Housing,” Building and Environment Volume 156, June 2019, pages 203-214.

## **2. Jurisdiction Case Studies and Best Practices**

Creating a sufficient supply of affordable housing requires multiple approaches, with no one-size-fits-all solution. Some cities have been able to take meaningful steps to create environments where affordable housing is feasible with innovative housing strategies. The following cities and counties have taken steps to create models that fit their unique circumstances.

### **Case Study: 21 Elements**

21 Elements is an award-winning collaborative planning project that helps all jurisdictions in San Mateo County address their housing needs. Co-sponsored and coordinated by the San Mateo County Department of Housing (DOH) and the City/County Association of Governments of San Mateo County (C/CAG), 21 Elements has successfully brought together 21 communities and assisted them as they work to provide a growing and changing population with a diversity of housing choices. Key collaborations have included:

- Collaborating to complete affordable housing/commercial linkage feasibility study that applies for multiple jurisdictions, at a fraction of the cost to each individual jurisdiction
- Hosting ADU Happy Hours (accessory dwelling units) to address ongoing questions as ADU laws evolve
- Coordinating review and discussion sessions with the State Department of Housing and Community Development (HCD) to address questions and receive feedback on draft housing-related ordinances
- Collaboration during and subsequent to the Regional Housing Needs Allocation (RHNA) development process

### **Case Study: Pasadena, CA ADUs**

Pasadena's ADU ordinance assesses an impact fee of \$20,000 per ADU to provide services. However, the fee can be reduced to \$900 if the homeowner agrees to one of the following three conditions:

- Provide the ADU as housing for family members for seven years;
- Rent to Housing Choice Voucher recipients; or
- Rent to low- and moderate-income households (households with incomes up to 120 percent of the County average median income, or AMI).

### **Case Study: Sonoma County, CA**

The County of Sonoma has employed varied techniques to aid in its affordable housing production. Of note is the establishment of the County Fund for Housing (CFH) to provide financial assistance for the accelerated production and preservation of affordable housing for low-, very low-, and extremely low-income households. The CFH receives funds from the County's General Fund, in-lieu fees, transient occupancy tax, and loan interest fees.

### **Case Study: Denver, CO**

The City and County of Denver have integrated an affordable housing approach into local goals and policies. In 2017, the City released "Housing and Inclusive Denver," a five-year plan for housing policy, strategies, and investments. The plan outlines formal guidelines and tools that the City can employ to create affordable housing. The multi-pronged approach includes:

- Adapting traditional Euclidean zoning to form-based zoning to create greater flexibility for residential development
- Developing a formalized process for acquiring new land
- Proactively acquiring land in "vulnerable" areas to preserve opportunities for affordable and mixed-income housing

- Developing a methodology for disposal of city-owned land for affordable housing developments that involves proximity to a current or future transit corridor
- Assessing vacant and underutilized land for affordable housing suitability

In addition, Denver has invested significantly into a revolving loan fund that targets projects that are eligible for but may not receive low-income housing tax credits. Started in 2016, the loan program was funded by \$6 million from the City and County of Denver, \$3 million from the Colorado Department of Local Affairs, and \$1 million from the Colorado Housing and Finance Authority. The program was successful in facilitating construction of new apartments and furthermore, helped build support necessary to win approval for a dedicated local funding source for affordable housing, based on both development impact fees for commercial and residential developments and a property tax dedication for all parcels in the County.

Denver also initiated a two-year public-private partnership pilot program (LIVE Denver) that functions similar to a HUD Section 8 Housing Choice Voucher program but is available to people who fall within a wider income range. The City, Denver Housing Authority, major local employers, and foundation grants are providing the funds to support the program.

### **Case Study: Austin, TX**

The City of Austin initiated a S.M.A.R.T Housing initiative in 2002 to encourage and expedite affordable housing development. Variations and incentives differ throughout the city, with tailored incentives for affordable housing. For example:

- If a project includes 10% affordable units:
  - In lower-density areas (e.g., R-2 through R-4 zones), the site may be developed with the standards of a higher density zone (such as R-5).
  - Permit, inspection, and capital recovery fees are waived.
- If project includes 10% micro units (500 square feet or less), the City can waive minimum site area requirements and reduce off-street parking requirements (in transit corridors and TOD).
- Other tailored incentives and waivers are available based on development type and location.

### **Case Study: Cuyahoga County, OH Linked Deposits**

The County Treasurer in Cuyahoga County invests up to 10 percent of local tax revenues in participating banks at below market rates (not to exceed a three percent differential). In exchange, banks must commit to passing on the savings to borrowers in the form of low-interest loans for housing rehabilitation and renovation. The loans are limited to any homeowner (regardless of income) where housing values have appreciated less than two percent over the preceding two years. As the property values increase, the property tax values increase to the County as well.

### **Case Study: Salt Lake City, UT**

Salt Lake City recently adopted “Growing SLC: A Five-Year Housing Plan 2018-2022.” The plan calls for the City to reform practices so that the housing market can respond to the growing economy. This includes revising the zoning ordinance to provide flexibility for developers, such as mixed-use districts, transit-oriented design, and form-based codes. To accommodate infill development, land use regulations permit subdividing large lots, allow innovative housing types, and reduce required parking. Streamlined review processes are anticipated similarly support housing development, such as expedited permitting for affordable housing developments.

The plan also calls for the City to provide incentives for affordable housing development. Specifically mentioned are inclusionary zoning, with increased development density in exchange for affordable units, and discounts for City-owned land, as well as the City providing infrastructure upgrades where needed. The plan

advocates State legislation to allow tax abatements and impact fee waivers for affordable housing, as well as charging real estate recording fees to raise additional funding. To encourage renting to low-income households, local jurisdictions should be enabled to provide insurance programs to cover property damage or unpaid rent.

The plan also includes policies to ensure equitable and fair housing and access to high-opportunity neighborhoods. The plan calls for compliance with the affirmatively furthering fair housing rule to end discriminatory acts and policies. Objectives seek to maintain an equitable citywide ratio of affordable to market-rate units, including building fewer affordable units in low-opportunity areas and providing incentives for more units in high-opportunity areas.

### Tenant Protection

**Pasadena, CA:** Previously, Pasadena landlords were required to pay relocation benefits to displaced tenants in various situations, including when a rental unit is vacated due to demolition, conversion to a condominium, permanent removal of the unit from the rental market, occupancy by the landlord or a family member, or a government order to vacate.

The City amended its Tenant Protection Ordinance to include sale of property as a qualifying act for compensation (moving expense and relocation allowance). Allowance is adjusted based on length of tenancy and for families with dependent children or persons with disabilities. Base relocation allowance is two times HUD Fair Market Rent and moving allowance. Tenants of at least 10 years receive an additional allowance of 10 percent per year above 10 years.

**Santa Monica, CA:** The Santa Monica City Council passed an ordinance in May 2018 that enhances tenant protections for students and educators against no-fault evictions during the school year. Under the law, a court should not grant a no-fault eviction if it occurs during the school year and the unit is occupied by a student under 18 years of age or an educator.

**AB 1482:** Both of these ordinances largely became moot with the passage of AB 1482 (Tenant Protection Act of 2019), but the intent to consider the needs of school-age children and the relationship between housing and school attendance remains important. AB 1482 limits rent increases to five percent (plus local inflation) per year for buildings 15 years and older, and also requires landlords to show “just cause,” such as failure to pay rent, when terminating a lease.

#### AB 1482 (Tenant Protection Act of 2019)

- Went into effect on January 1, 2020 and expires on January 1, 2030
- Applies to all residential development except:
  - Units constructed within the last 15 years (this applies on a rolling basis)
  - Mobile homes and certain dormitories
  - Two-unit properties where the owner of the property lives in the other unit
  - Single-family homes that are not owned by a trust, corporation, or LLC and the landlord notifies the tenant in writing that this law does not apply
- Limits annual rental increases to 5% plus local (CPI) inflation
- Requires a landlord to have a “just cause” to terminate a tenancy

### 3. Address Household Spending Imbalance on Transportation

The traditional threshold of housing affordability is 30 percent of household income. While this does include utility costs, it does not factor in transportation costs, which are often a households’ second largest expense. While 55 percent of all neighborhoods in the country are “affordable” under the traditional threshold, only 26 percent are affordable when transportation costs are included.<sup>2</sup> Local zoning decisions that consider transportation costs and provide a diverse mix of housing opportunities in transportation-efficient, walkable

<sup>2</sup> LOCUS: Responsible Real Estate Developers and Investors, Letter to HUD; Response to the White House Council on Eliminating Regulatory Barriers to Affordable Housing’s November 2019 Request for Information. January 20, 2020.

neighborhoods support housing affordability for people of all income levels. This requires local support for and a focus on the efficiency of mass transit options as well, as these components are integrally related.

#### **4. Creating a Capital Pool/Affordable Housing Fund**

Cities and counties throughout the country are setting aside capital funds to expend on affordable housing production. With limited funds being expended at the federal level, local municipalities have developed localized funding models to fill major gaps in affordable housing development. Municipalities are utilizing a combination of their general funds, local tax gains, and development impact fees to create funding pools for affordable housing. Many cities award the capital funds on a competitive project-by-project basis through a Notice of Funding Availability. Projects containing entitlements, proof of financial backing, documented developer history, and community support have priority (e.g., Sonoma County, San Mateo County, Los Angeles County).

Public-private partnerships also present opportunities for affordable housing funds. Seattle-based Bellwether Housing created a Building Opportunity Fund, the nation's first crowd-funded impact investment that funds the development of affordable housing. Bellwether raised \$4.7 million in less than one year to invest in affordable housing.

#### **5. Inclusionary Housing Ordinances**

Inclusionary housing programs are another effective tool for creating affordable housing stock by incentivizing development of mixed-income housing. Inclusionary housing practices have been adopted by over 500 local jurisdictions throughout the United States, which encompass a variety of big cities, suburban communities, and small towns. The impacts of inclusionary zoning practices are highly dependent on local implementation. The programs work best in strong housing markets, as the production of affordable units is directly dependent on market-rate production. Production of below market-rate housing units varies from place to place, as some ordinances offer developer alternatives such as in-lieu fees. Additionally, some inclusionary housing programs contain mandatory elements, while others are voluntary for real estate developers. The most successful inclusionary housing programs have been found to:

- Work best in strong housing markets
- Be mandatory as opposed to voluntary programs
- Include incentives that offset developer costs
- Contain clear guidelines
- Contain flexible compliance options

#### **6. Commercial Linkage Fees**

Commercial linkage fees are charged to developers of new commercial and industrial properties and used to fund the development of affordable housing. Sometimes called jobs-housing linkage fees, these fees are typically assessed on a per-square-foot basis. Some jurisdictions establish commercial linkage fees through an incentive program, whereby if builders of nonresidential development choose to build over the base amount, they pay into a fund to provide affordable housing on the amount above the base development allowance (e.g., Seattle). Other cities require payment of commercial linkage fees through a mandatory development impact fee (e.g., Los Angeles). In order to establish a mandatory linkage fee in California, cities must first conduct a nexus study. Nexus studies analyze the relationships between commercial development projects, the new employment generated, the new demand for workers and worker households, their income distributions, and an estimate of those new households that will need affordable housing. Fees collected from commercial linkage fees could go toward new housing, preservation of existing units, or the acquisition of new land for nonprofit developers.

## 7. Tiny Home Initiatives

Several municipalities throughout California have—through legislative actions—approved the construction and placement of tiny homes in residential zoning districts. Many tiny home ordinances maintain common characteristics with their respective city’s zoning regulations pertaining to accessory dwelling units/secondary units (related to their size, location, parking requirements, and architectural compatibility). Many of the cities examined require that tiny homes remain moveable, obtain a Department of Motor Vehicles (DMV) permit (since they are considered to be similar to travel trailers), and follow American National Standards Institute (ANSI) safety standards. Jurisdictions look to balance the desire to increase affordable housing stock with necessary infrastructural requirements, such as sewer and water hook-ups and related fees.

In the City of San Luis Obispo, a Movable Tiny Homes in Residential Zones Ordinance was adopted in 2018. Under the ordinance, moveable tiny homes in residential zones are permitted for a period of three to five years if located within a rear setback area. Utility and service connections are required, and the design must match the appearance of a home. In addition, ANSI and DMV certifications are required.

The City of Fresno was the first jurisdiction in California to approve a tiny home ordinance. Tiny homes/ADUs/backyard cottages in Fresno must be towable and designed with a conventional building structure.

Sonoma County classifies tiny homes as ADUs, Junior ADUs (attached to bedroom, contains an exterior door), Cottage Housing Developments (detached or attached), Farmworker Housing, or Special Occupancy Parks (Recreational Vehicle Park).

## 8. Land Trust Initiatives

Formation of land trusts can be a vital tool in the affordability housing market. The driving force behind housing affordability issues in major cities continues to be private capital real estate gains, as private investors take publicly created land value for private profit. One solution is removing land from the for-profit market, hence making housing opportunities more attainable to diverse income groups. It is common for land trusts to be bound by legal requirements that create timed covenants. These covenants facilitate the creation of perpetual affordable housing opportunities while making homeowners and renters much less susceptible to a highly speculative and fluctuating real estate market and land values. Creating a community land trust is a complex process that requires seed funding, community and policy maker engagement, and property acquisition before price increases.

The Sawmill Community Land Trust, located near downtown Albuquerque, New Mexico, evolved from community organizations with a charge to create a permanent stock of affordable housing in the neighborhood. In partnership with the City of Albuquerque, which acquired a 27-acre former industrial site, SCLT developed plans for 196 housing units of various types (live-work lofts, single-family detached houses, townhouses, duplexes, senior apartments and condos), as well as a plaza, park, community center, commercial space, and open space connected with trails. SCLT was a critical partner in planning for the surrounding 510-acre Sawmill/Wells Park area to expand the SCLT model to other neighborhoods.<sup>3</sup>

Another example in California is the Northern California Land Trust, which is a conglomerate of rental units, condominiums, cooperatives, single-family homes, and community facilities. The Bay Area Community Land Trust also provides cooperative homeownership opportunities.

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<sup>3</sup> Rosalind Greenstein and Yesim Sungu-Eryilmaz. “Community Land Trusts,” Lincoln Institute of Land Policy. Land Lines, April 2005.

## 9. Development Fee Revisions

Paso Robles HCOG initiated multiple fee reductions and modifications to encourage housing development. Similar methodologies are being explored by the legislature. In February 2020, a package of eight bills was introduced in the California Assembly that target development and impact fees:

- AB 1484: Provides a comprehensive reform of the nexus standards that cities and counties use to determine their fees
- AB 1924: Requires jurisdictions to assess fees on a per-square-foot basis, giving developers the option to build smaller, more affordable units without being penalized with multiple fees
- AB 3144: Provides State funding to reimburse local governments who waive impact fees on affordable projects
- AB 3145: Establishes a ceiling for development fees based on the median home price in a jurisdiction. Cities and counties that exceed this ceiling will be required to seek approval from the Department of Housing and Community Development and justify the need to do so.
- AB 3146: Requires cities and counties to report a wide variety of essential housing data to the Department of Housing and Community Development, including the number of new housing units that have been issued a completed entitlement, a building permit, or a certificate of occupancy
- AB 3147: Ensures that certain impact fees are payable under protest. This allows for a developer to pay a fee they consider to be unreasonably high so they can continue construction.
- AB 3148: Reduces the impact fees paid on affordable housing units that are built using the State's density bonus program
- AB 3149: Modernizes the way that local agencies notify interested parties prior to levying a new fee or service charge or prior to approving an increase in an existing fee or service charge

## 10. Conclusions

Cities throughout the nation are struggling to provide pathways to affordable housing development while continuing to meet community needs for infrastructure and ongoing services. Legislation at the State level and reform of federal processes and programs are factors to be considered moving forward. "Auctioning the Upzone,"<sup>4</sup> a recent paper published by University of California, Davis professors discusses an alternative path forward that would allow local governments to auction development rights created by upzoning, thereby capturing a portion of the increase in property value associated with an upzone (without having to go through a development agreement process). This is sometimes referred to as "value capture" and is practice in Canadian cities. This idea presents significant structural challenges on a statewide basis, but innovative ideas are likely to be necessary to address the large-scale problem.

The U.S. Department of Housing and Urban Development maintains a Regulatory Barriers Clearinghouse, initiated in 2000. This searchable inventory provides example ordinances, plans, and case studies of barriers and efforts to overcome barriers. In late 2019, HUD published a request for information to assist with federal efforts to reduce regulatory barriers and increase affordable housing, in response to Executive Order 13878, "Establishing a White House Council on Eliminating Regulatory Barriers to Affordable Housing." HUD is specifically interested in receiving information, data, analyses and recommendations on the following:

- Federal barriers to affordable housing development
- State barriers to affordable housing development
- Local barriers to affordable housing development
- Basis for reducing barriers to affordable housing development

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<sup>4</sup> Elmendorf, Chris and Darien Shanske. "Auctioning the Upzone: A New Strategy to Induce Local Government Compliance with State Housing Policies," December 2018.

- Plan development and implementation
- Research questions

Affordable housing policy is a local, State, and federal issue, and all of these levels must be considered in the identification of solutions.