Multifamily Market Commentary – April 2017

Cities Strengthen Inclusionary Zoning Programs

Despite the leveling-off of rent growth in the fourth quarter of 2016, national rents are estimated to have risen more than 13 percent from the pre-recession peak in 2008. During the same period, the estimated national vacancy rate has fallen from a recession high of 8.25 percent to 5.25 percent in the fourth quarter 2016. Low vacancies and high rent growth are a symptom of a supply/demand imbalance, which is even more acutely felt in the affordable housing sector. Many municipalities are attempting to address this imbalance by either strengthening existing or creating new inclusionary zoning programs targeting new residential properties, including multifamily.

What is Inclusionary Zoning?

Inclusionary zoning programs vary and are offered by local or state government agencies to provide developers of residential housing certain benefits for including affordable units in new, primarily market rate, properties. Benefits include density bonuses, an expedited permitting process, fee waivers, or even relaxed development standards. In some cases, inclusionary zoning programs may even provide subsidies that aid the developer in paying for the production of affordable units. Since inclusionary zoning programs do not require direct subsidy dollars to create affordable homes and rentals, they are a market-based solution for affordable housing.

Massachusetts: 20 Percent Set Aside for Affordable Units

Some states offer voluntary statewide programs. For example, Massachusetts' Chapter 40B program has been quite successful enabling local zoning boards to approve affordable housing developments under flexible rules in exchange for long-term affordability restrictions. Also known as the Comprehensive Permit Law, Chapter 40B was enacted in 1969 with the goal of ensuring that 10 percent of housing in each community is affordable to lower income residents. Of these, at least a quarter of rental units must be affordable to lower income residents earning up to 80 percent of the area median income (AMI) for their location. Alternatively, the project can ensure that 20 percent of rental units are affordable to households earning up to half of the AMI.

As of 2016, the Chapter 40B program has created about 48,800 units of multifamily rental housing. An estimated 29,800 units, about 61 percent, were income restricted. Some of the units were also subsidized with Low Income Housing Tax Credits (LIHTC).

According to the non-profit Grounded Solutions Network, which conducted a survey of inclusionary housing programs last year, Massachusetts also has the Smart Growth Zoning Overlay District Act, also known as 40R, which encourages communities to create smart growth districts. Among other things, these are districts that can be located near bus or train stations. These districts must ensure that at least 20 percent of housing units are affordable to households at or below 80 percent of AMI.

Massachusetts 40B Program
Total Units Built or Under Construction

	Total Units	Affordable Units	Affordable Units Share
Rental	48,800	29,800	61%
Ownership	19,500	5,400	28%
Total	68,300	35,200	52%

Source: http://www.mhp.net/writable/resources/documents/Municipal-role-in-Ch.-40B.pdf (page 4)

KEY AFFORDABLE HOUSING TERMS

Area Median Income (AMI):
The income for a city where half of households earn more and half of households earn less.
Example: 2016 HUD Area Median Income for New Bedford, MA metro area was $56,100
80 percent of AMI = 0.8 * $56,100 = $44,900
50 percent of AMI = 0.5 * $56,100 = $28,100

Affordable Rent:
Rent is affordable when a household spends no more than 30% of gross income on housing costs (rent + utilities for renters)
Example: 2016 HUD Area Median Income for New Bedford was $56,100 per year/$4,700 per month.
Affordable Rent is 30% of income:
$4,700 * 0.30 = $1,400 per month.

Source: U.S. Dept. of Housing and Urban Development

Connecticut: 30 Percent Minimum Set Aside

Connecticut also has a statewide program. Under its 8-30G statute, in communities where less than 10 percent of housing is affordable, developers may receive automatic approval for projects in which 30 percent of units are deed restricted for a minimum of 40 years.

In addition, 15 percent of units must be affordable to households earning no more than 80 percent of AMI and 15 percent of units must be affordable up to 60 percent of AMI. Connecticut's program has produced about 5,600 units of both single-family and multifamily affordable housing since 1989. Recently, it has been used to develop affordable multifamily in more affluent suburbs with a shortage of rental units.

Washington, DC: Set-Aside is in Square Footage

Set aside requirements are not always in units. For instance, Washington DC's inclusionary zoning program requires a set aside of a certain percentage of square footage. The District's program is mandatory and generally allows up to a 20 percent bonus in a residential project's density in exchange for 8-to-10 percent of a project's square footage set aside as affordable. While the program applies to new construction, it can also apply to a substantial rehab project with at least a 50 percent increase in square footage.

While the District's affordability requirements are permanent, they vary by location. In certain neighborhoods, half of new units must be affordable up to 50 percent of AMI while the remaining half must be affordable to families earning no more than 80 percent of AMI. In other neighborhoods, all units must be affordable up to 80 percent of AMI. Since the District's program was implemented in 2009, it has produced an estimated 318 units of new affordable rental housing and 84 units of affordable housing for sale. But 318 units is a small percentage of the more than 21,000 estimated new multifamily units that were delivered during that timeframe.

New York City: Increased Set Aside

New York City considers development of inclusionary housing to be so important that in 2016 it strengthened its inclusionary zoning program by developing a mandatory inclusionary zoning program and increased the set aside for affordable housing. As shown below, the R10 voluntary program established in 1987 required that only between 4-to-5 percent of new units be set aside. By contrast, the IHDA program established in 2005 increased that requirement to 20 percent.

The Mandatory Inclusionary Housing (MIH) program was established in early 2016. The MIH program mandated that a much higher percentage of units be set aside than in previous programs. When new housing capacity is approved through land use actions, the New York City Planning Commission and the City Council can choose to impose either one or both of two basic options: setting aside one quarter of units affordable up to 60 percent of AMI, including a 10 percent set aside of units affordable up to 40 percent of AMI; or developers can set aside just under one-third of units affordable up to 80 percent of AMI. The city may impose additional affordability restrictions if deemed necessary, including a Workforce Housing Option that sets aside 30 percent of units affordable to 115 percent of AMI. New York City is typical of many large cities that have been increasing the percentage of units set aside with affordability restrictions and, in some cases, creating new mandatory programs.

New York City Inclusionary Housing Programs for Residential Development

	R10 Program	IHDA Program	MIH Program
Year Adopted	1987	2005	2016
Program Type	Voluntary	Voluntary	Mandatory
Duration of Affordability	Permanent	Permanent	Permanent
Minimum Set Aside (%)	4-5%	20%	Two Basic Onsite Options*: 1) 25% at 60%/10% at 40% 2) 30% at 80% AMI Workforce Housing Option: 30% up to 115% of AMI
Income Targets (AMI)	<80% most areas; up to 125% or 175% in designated areas	<80% most areas; up to 125% or 175% in designated areas	Basic options at an average of 60% and/or 80%; additional options at an average of 40% and/or 115%

Inclusionary Zoning Reflects Metros with Increasing Housing Demand

Usually, inclusionary zoning programs have more substantial impact in metros where rising population and job growth fuel higher housing costs. As shown in the table below, this includes large, well-established cities, such as Boston and Atlanta, as well as rapidly growing smaller metros such as Boulder, CO and Asheville, NC.

Set asides for affordable housing generally increase when a city provides financing, land, or other support. For instance, Chicago requires that the percentage of units set aside with affordability restrictions increase to 20 percent from 10 percent if city-provided financing is involved.

Inclusionary Zoning Programs for Residential Development - Select Metros

	Duration of Affordability	Minimum Set Aside	Renter Income Targets (AMI)
New York City (MIH program)	Permanent	Two Basic Options: 1) 25% at 60%/10% at 40% 2) 30% at 80% AMI	Basic options at an average of 60% and/or 80%; additional options at an average of 40% and/or 115%
San Francisco	Permanent	25% onsite for 25+ unit projects	Up to 55% for new units; Up to 60% for re-rents
Boston	50 years; potential to 99	13%	Up to 100% in Zone C Up to 70% all other Zones
Chicago (ARO Program)	Minimum of 30 years	10% but increases to 20% with city provided financing	Up to 60%
Seattle (MHA program)	50 years	Varies by location; up to 11% min.	Up to 80%
San Diego	Permanent	10%	65%
Portland	Permanent	20% for central 15% all other	Up to 80%
District of Columbia	Permanent	- 8% sq. footage for steel and concrete building - 10% for all other	Varies by location: - Half of units affordable up to 50% AMI/half of units affordable up to 80% or - All units affordable to 80%
Atlanta	Permanent	15% for projects with city funds	Two Options: 10% at 60%/15% at 80% AMI
Asheville, NC	15 years	20% (50 units for workforce program)	50%-80%/80% to 120% Up to 120% AMI for workforce)
Boulder	Permanent	20%	Up to 80% of AMI
Montgomery County, MD	99 years	12.5% to 15%	Up to 80% of AMI

Sources:
New York City: http://www1.nyc.gov/site/planning/plans/mih/mandatory-inclusionary-housing.page
Boston: http://www.bostonplans.org/getattachment/91c30f77-6836-43f9-85b9-f0ad73df9f7c
San Francisco: http://sfmohcd.org/inclusionary-housing-program-developer-and-agent-information
Seattle: https://www.seattle.gov/housing/housing-developers/incentive-zoning
San Diego: https://www.sandiego.gov/sites/default/files/dsdib532.pdf
Portland: https://www.portlandoregon.gov/phb/72302
Asheville: https://www.buncombecounty.org/common/planning/WorkforceRentalHousingApplication.pdf
Atlanta: http://www.investatlanta.com/news-press/press-releases/press-release-new-afforable-housing-policy/

Alternatives to On-Site Inclusionary Development

In addition to setting aside a percentage of affordable units for a particular new development seeking approval, many jurisdictions allow developers to create the equivalent number of units “off-site” at another location. Under another option known as “fee-in-lieu” or “payment-in-lieu,” developers may opt to contribute to a fund that is designated to create affordable units elsewhere in the jurisdiction. For instance, depending on the location of a development, Chicago’s Affordable Requirement Ordinance (ARO) allows developers to contribute between $50,000 and $175,000 to the city’s housing trust fund in lieu of directly setting aside affordable housing units in a new project.

Seattle Has Multiple Programs

Seattle recently strengthened its inclusionary zoning program by creating the Mandatory Housing Affordability (MHA) program that requires commercial and multifamily developers to contribute to affordable housing by either including affordable units in a new development or by making a payment-in-lieu to fund affordable housing to be built throughout the city. MHA aims to create 6,300 units of rent-restricted housing by 2025.

The program creates three tiers of MHA requirements for multifamily residential and commercial development based on location in what are deemed Low, Medium or High Cost Areas and whether the zoning increase moves a zone from one category to another. Set asides for affordable rentals range from 5 percent to 11 percent depending on the type of property and location; however all rentals must be affordable up to a maximum of 60 percent of AMI. Seattle’s MHA program was added to supplement its existing voluntary inclusionary zoning program.

Interestingly, Seattle already had an even more generous set aside program. Seattle’s Multifamily Property Tax Exemption (MFTE) Program provides a 10-to-12 year tax exemption on new multifamily buildings in exchange for setting aside between 20-and-25 percent of a project’s units as income- and rent-restricted for 10 years. In some areas 25 percent of units must be affordable up to 80 percent of AMI, while in others 40 percent of units must be affordable below 60 percent of AMI.

Some Cities Increasing Set Aside Percentages

San Francisco's Inclusionary Housing Program requires developers of projects with 10-or-more units to pay an Affordable Housing Fee or, instead, to sell or rent a percentage of the units at a "below market rate" price that is affordable to low- or middle-income households. An estimated 3,000 units have resulted from this program.

Since 2013, that percentage of units set aside for affordability has been increasing, as shown in the table below. In fact, for residential units developed on or after January 12, 2016, in projects of at least 25 units, the set aside percentage increased to 25 percent from just 12 percent in 2013.

On-Site Set Aside Percentages for Residential Development - San Francisco

	Before 1/1/13	Before 1/1/14	Before 1/1/15	Before 1/12/16	After 1/12/16
10-24 unit projects	12.0%	12.0%	12.0%	12.0%	12.0%
25+ unit projects	12.0%	13.0%	13.5%	14.5%	25.0%

Applies to residential developments of 10 units or more.
Source: http://sfmohcd.org/inclusionary-housing-program%20

Besides New York and San Francisco, several other cities have recently increased set aside percentages for affordable housing and/or created mandatory programs, including Portland, Boulder, and Seattle. Cambridge, MA is currently considering a proposal to increase its set aside requirement to 20 percent from 15 percent.

In fact, according Grounded Solutions Network, an estimated 40 jurisdictions now have minimum set asides of 20 percent or more. While most are located in high-cost California, some are located in more unexpected places. For instance, in North Carolina, in addition to Asheville, Winston-Salem and Manteo have programs with minimum 20% set asides.

Variability in Producing Affordable Units

According to a May 2016 report from the nonprofit National Housing Conference's research division Center for Housing Policy, entitled Separating Fact from Fiction to Design Effective Inclusionary Housing Programs, over 500 local jurisdictions have adopted inclusionary zoning policies, but there is considerable variability in the number of units produced, as shown in the adjacent table.

Including both single-family and multifamily affordable units, the oldest inclusionary housing program is located in Montgomery County, MD, which has produced slightly more than 13,000 units since 1974, averaging 358 units per year. By contrast, Denver's newer inclusionary zoning program is estimated to have produced fewer than 100 units in total since its creation in 2002. In fact, since some of these inclusionary zoning programs are in their infancy, they have yet to produce a single affordable unit.

Affordable Housing Units Produced by Local Inclusionary Zoning Programs

Jurisdiction	Period	Total Inclusionary Units Produced*	Average Number of Inclusionary Units Produced per Year
Montgomery County, MD	1974–2011	13,246	358
Fairfax County, VA	1990–2011	2,448	117
Prince George's County, MD	1993–1996 (repealed)	1,600	400
San Francisco, CA	2002–2008	1,328	83
Chicago, IL	2003–2009	1,235	206
San Diego, CA	1992–2003	1,200	109
Huntington Beach, CA	2002–2010	1,071	134
Santa Monica, CA	1990–2009	862	45
Emeryville, CA	1990–2009	706	37
Mahwah Township, NJ	1985–2010	650	26
San Clemente, CA	1999–2006	627	90
Santa Fe, NM	1999–2010	593	54
Sunnyvale, CA	1980–1999	529	28
Freehold Township, NJ	1984–2010	519	20
Loudoun County, VA	1993-2001	509	64
Montville Township, NJ	1985–2010	407	16
Cambridge, MA	1998–2010	385	32
Boulder, CO	2000–2009	364	40
San Bruno, CA	1999–2006	325	46
Monrovia, CA	1990–2003	280	22
Brea, CA	1993–2003	278	28
Washington, DC	2009–2014	211	42
Boston, MA	2000–2004	200	50
Burlington, VT	1990–2012	200	9
San Juan Capistrano, CA	1995–2003	196	25
Chapel Hill, NC	2000–2002	154	77
Laguna Beach, CA	1985–2003	139	8
Denver, CO	2002–2012	77	8
Davidson, NC	2001–2011	54	5
Mill Valley, CA	1990–2010	35	2
Virginia Beach, VA	2007–2013	7	1

** New Units, Excludes units produced with in-lieu fees*
Source: Separating Fact from Fiction to Design Effective Inclusionary Housing Programs

Inclusionary Zoning Shows Promise

More and more inclusionary zoning programs are being implemented across the country and existing programs are being strengthened. However, it can be challenging to track the number of units created under these programs. While not required, state and local inclusionary zoning programs may allow federal subsidies and developers may use fee-in-lieu to satisfy inclusionary zoning requirements, making it challenging to track the number of additional affordable units created under these programs. By one estimate, these programs have created up to 150,000 units of affordable single-family and multifamily housing. Unfortunately, short of the creation of a national database to identify and track all of the nation's various programs, the real impact of inclusionary zoning remains elusive.

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