Overview of Inclusionary Housing in California

California's perpetually high housing prices have been a primary factor in the development of inclusionary housing programs in the state. According to preliminary results from a 2002 Non-Profit Housing Association (NPH) study, 107 California jurisdictions have an inclusionary program, with 23 percent of counties and 21 percent of cities requiring an affordable component in market rate housing developments. [10]

The details and requirements of inclusionary housing programs in California vary from jurisdiction to jurisdiction. Programs differ on a number of characteristics, including the mandated percentage of affordable units, affordability levels, the length of time the affordability restrictions apply to the project, the minimum project size that triggers an inclusionary requirement, and the option of an in lieu fee payment.

The required percentage of affordable units ranges from 5 percent to 50 percent in California programs. For ownership housing, NPH reports that approximately 4 percent of jurisdictions require less than 10 percent inclusionary, 48 percent have a 10 to 14 percent requirement, 25 percent have a 15 to 19 percent requirement, and 23 percent require 20 percent or more. The distribution for rental housing requirements is roughly the same as the ownership requirements.

In terms of the target income range, 43 percent of California programs target very low income households, 72 percent serve low income households, and 63 percent require inclusionary units to be affordable to moderate income households. Rental inclusionary programs typically focus more on very low and low income households, while ownership inclusionary programs generally target low and moderate income households.

Terms of affordability range from 2 years to perpetuity, though most programs (64 percent) require affordability restrictions to remain in effect for at least 30 years. The most common requirement for rental projects is 50 or more years (26 percent of jurisdictions), and the most common term for ownership projects is 30 to 39 years (26 percent of jurisdictions). NPH also

[10] NPH intends on releasing the final version of the report in May 2003.

found that 21 percent of ownership programs and 18 percent of rental programs require units to be affordable in perpetuity. In addition, some cities will reserve the right of first refusal upon resale of an inclusionary unit to further preserve its affordability, and will require that the affordability term be "reset" if sale occurs prior to the expiration of the original term. Long-term affordability restrictions on for-sale housing, in particular, remain controversial, with many critics declaring resale controls as an intrusion into private property rights. Resale price controls also limit the ability of low and moderate income homeowners to fully benefit from the appreciation of an affordable unit. Nevertheless, housing advocates emphasize the need for sale restrictions to maintain a healthy stock of affordable housing.

The threshold project size for inclusionary requirements is generally 10 units, as smaller projects often lack the economies of scale to make inclusionary units financially feasible for the developer.

In many inclusionary programs, developers may pay a fee in lieu of creating the affordable units. Jurisdictions often employ in-lieu fees in smaller projects, where a fraction of an affordable unit would otherwise be required or the inclusionary units are financially infeasible for the developer. Jurisdictions direct the fees to homeless assistance, land acquisition, housing rehabilitation, housing trust funds, and other affordable housing programs. Developers usually prefer the in-lieu fee option due to concerns of affordable units impacting the marketability of their projects, and the real or perceived complications associated with the development, rental, and sale of affordable units. However, jurisdictions that emphasize the need for affordable housing generally encourage the provision of the units, rather than payment of an in-lieu fee.

Several inclusionary programs allow the developer to provide the required affordable units at another site, allaying the developer's concerns that the market rate units will be impacted. While this option may develop an equivalent number of affordable units, it erodes the inclusionary value of the program by segregating lower income households.

Most programs do not require market rate units and inclusionary units to be identical, though most require them to be similar in outward appearance. Similarly, inclusionary programs commonly require that affordable units be distributed throughout the development rather than clustered in a single area where they may be easily identified.

To offset the costs that inclusionary units create for developers and to encourage an even greater share of affordable units, some jurisdictions offer incentives including fast-track permitting, impact fee waivers or deferrals, lower parking requirements, and relaxation of certain design requirements. The NPH report indicates that density bonuses and fast-track processing are the most common strategies, with 81 percent and 38 percent respectively of jurisdictions reporting such an incentive. Twenty-nine percent of jurisdictions offer fee reductions, 27 percent provide fee waivers, and 30 percent allow for design standards reductions.

Cities have also helped subsidize inclusionary units through land write-downs, below-market rate construction loans, and Community Development Block Grants. The State of California has passed enabling legislation for local governments to create incentives for the inclusion of affordable units in residential developments. The state law enables local governments to offer density bonuses of at least 25 percent, plus additional financial incentives, to housing developers who agree to construct at least 20 percent of the units affordable to low income households, 10 percent of the units affordable to very low income households, or senior housing.