

White Paper: Inclusionary Zoning in Oregon

Oregon Inclusionary Zoning Coalition

Introduction

Inclusionary zoning (IZ) is a market-based, land-use housing policy that enables lower- and moderate- income households to live in new, private developments in middle- or upper-income communities. IZ policies encourage real estate developers to include units that are sold or rented at below-market prices into market-rate developments in exchange for incentives designed to offset the costs. By integrating affordable units into market-rate projects, IZ creates opportunities for households from diverse socioeconomic backgrounds to live in the same communities and allows people of all incomes to have access to the same amenities, services and opportunities, such as good jobs, good schools, transportation and healthy living environments. More inclusive, mixed-income communities reduce concentrated poverty in other areas by giving low- and middle-income families and residents more opportunities to live in low-poverty neighborhoods and communities. Reducing concentrated poverty benefits the entire community by reducing crime rates, dropout rates and teenage pregnancies, and increasing educational outcomes, economic opportunities and public health outcomes. Additionally, reducing concentrated poverty through the expansion of mixed-income communities can open more neighborhoods to market-rate development opportunities. Ensuring that everyone has access to high-quality housing is more than just a numbers game: place matters. To give just one example, it's long been observed in public health that a strong predictor of a person's future health is the ZIP code in which they're born. That's fundamentally unjust; every individual deserves an opportunity to thrive. Inclusive housing is the necessary first step.

Inclusionary Zoning programs vary widely in their structure. They are preferable to traditional one-size-fits all affordable housing programs because they can be customized and flexible to adapt to each community's unique housing market and needs. Mandatory ordinances require any new development over a predetermined threshold of units to "set aside" a certain percentage of units as affordable, or pay an "in-lieu-of" fee into a local housing trust or program. Voluntary programs are sometimes seen as more feasible politically, but produce far fewer affordable units and must offer substantial subsidies to the developer. Both mandatory and voluntary programs have different set-aside requirements, affordability levels and control periods, and offer developers incentives to offset costs, such as density bonuses, expedited permit approval, reduced parking requirements, and fee waivers. Inclusionary Zoning is a local policy tool, and should not be mandated, implemented or prohibited at the state level. Local communities deserve to have local control and decide which tools are necessary to address local housing markets, housing needs, fiscal and economic realities, and political priorities.

History of Inclusionary Zoning in Oregon

In the late 1990s, the Portland metropolitan area's elected regional government initiated a process that led to the adoption of the Regional Affordable Housing Strategy (RAHS).¹ An early regional framework plan included affordable housing policies that considered a mandatory inclusionary zoning policy, as a last resort, if other voluntary incentives were not offered to developers by local jurisdictions.² Metro was quickly served with a legal appeal of the regional framework by various local jurisdictions, and as a result of mediations and negotiations, any reference to a mandatory inclusionary zoning ordinance was stripped from the final RAHS.³ Then in 1999, the Oregon Home Builders Association successfully lobbied to amend Oregon Revised Statute 197 to effectively ban any governing body in the state from adopting a mandatory Inclusionary Zoning Ordinance. Various efforts by housing advocates since 1999 to overturn the statewide preemption have fallen short.

Inclusionary Zoning Ordinances and Laws Across the US

Montgomery County, Maryland was the first jurisdiction to adopt an inclusionary zoning law in 1973, and by 2003, the IZ program had produced over 11,000 affordable housing units. Across the country, over 400 jurisdictions currently have some type of inclusionary zoning law or ordinance on the books. More than 100 jurisdictions employ inclusionary zoning in California alone; a 2003 survey found that in California more than 34,000 units of affordable housing had been created in California.⁴ IZ laws are developed locally, based on current housing needs, market conditions, development trends, and political considerations. According to a 2010 study of 52 jurisdictions nationwide, over half had amended their IZ ordinances at least once since initial inception.⁵ These amendments and adjustments to various IZ ordinance highlight the flexible nature of the policy to adjust to ever-changing market trends and needs. Just as local housing markets across the US vary widely and change dynamically, the customizable nature of IZ laws and ordinances make them an attractive local housing policy.

Various Incentives

Effective inclusionary zoning programs, both mandatory and voluntary, usually offer the developers a menu of diverse incentives to offset any costs associated with including below-market units. Each jurisdiction must strike an often delicate balance between fulfilling the need for affordable housing without overreaching and cooling the market. Jurisdictions typically conduct an economic feasibility analysis that takes into account various aspects of development (e.g., cost of land, normal profit margins, construction costs, fees, etc.) and the jurisdiction's housing needs and goals.

¹ Metro. (2000). *Regional Affordable Housing Strategy*. Portland, OR

² Provo, J. (2009). Risk-averse Regionalism The Cautionary Tale of Portland, Oregon, and Affordable Housing. *Journal of Planning Education and Research*, 28(3), 368-381.

³ Provo, J. (2009). *Ibid*

⁴ California Coalition for Rural Housing & Non-Profit Housing Association of Northern California. (2003). *Inclusionary Housing in California: 30 Years of Innovation*.

⁵ Innovative Housing Institute. (2010). *Inclusionary Housing Survey: Measures of Effectiveness*.

The table below offers examples of how various jurisdictions utilize a combination of incentives of offset the costs to developers.

Type of Cost-offsets	What It Does and Why It Helps Developers	Example
Density bonus	Allows developers to build at a greater density than residential zones typically permit. This allows developers to build additional market-rate units without having to acquire more land.	Most jurisdictions offer density bonuses. Typically they are equivalent to the required set-aside percentage. For example, Santa Fe , which varies its set-aside from 11 to 16 percent depending on the character of the market-rate units, matches its density bonus accordingly.
Unit size reduction	Allows developers to build smaller or differently configured inclusionary units, relative to market rate units, reducing construction and land costs.	Many programs allow unit size reduction while establishing minimum sizes. Burlington, Vermont , requires that inclusionary units be no smaller than 750 sqft. (1-bedroom), 1,000 sqft. (2-bedroom), 1,100 (3-bedroom) or 1,250 sqft. (4-bedroom).
Relaxed Parking Requirements	Allows parking space efficiency in higher density developments with underground or structured parking: reducing the number or size of spaces, or allowing tandem parking.	Denver, Colorado , waives 10 required parking spaces for each additional affordable unit, up to a total of 20 percent of the original parking requirement.
Design Flexibility	Grants flexibility in design guidelines-such as reduced setbacks from the street or property line, or waived minimum lot size requirement-utilizing land more efficiently.	Boston, Massachusetts , grants inclusionary housing projects greater floor-to-area ratio allowances. Sacramento, California , permits modifications of road width, lot coverage, and minimum lot size in relation to design and infrastructure needs.
Fee waivers or reductions	Reduces costs by waiving the impact and/or permit fees that support infrastructure development and municipal services. A jurisdiction must budget for this, since it will mean a loss of	Longmont, California , waives up to 14 fees if more affordable units (or units at deeper levels of affordability) are provided. Average fees waived are \$3,250 per single family home, \$2,283 per apartment unit.

	revenue.	
Fee deferrals	Allows delayed payment of impact and/or permit fees. One approach allows developers to pay fees upon receipt of certificate of occupancy, rather than upon application for a building permit, reducing carrying costs.	San Diego, California allows deferral of Development Impact Fees and Facility Benefit Assessments.
Fast track permitting	Streamlines the permitting process for development projects, reducing developers' carrying costs (e.g., interest payments on predevelopment loans and other land and property taxes).	Sacramento, California , expedites the permitting of inclusionary zoning projects to 90 days from the usual time frame of 9- 12 months. The City estimates an average savings of \$250,000 per project.

Source: Policylink.org

Various Requirements

Inclusionary Zoning programs require that a certain percentage of units are “set aside” as affordable. The percentage varies, but is typically in the range of 10-25%, and can also depend on the size of the development. Many mandatory ordinances employ a “trigger”, whereby developments under a certain size (5, 10, 20 units, etc.) are exempt from the requirement.

Each ordinance has various income targets for the affordable units as well, depending on the housing needs for each market. Moderate-income households, such as public-sector employees, nurses, teachers, etc., would require fewer cost offsets, and might be available for purchase, whereas rental housing for extremely low-income households might be difficult with cost offsets alone, but are often paired with additional subsidies, such as Low Income Housing Tax Credits, or tenant-based Section 8 housing vouchers.

Public Benefits of Inclusionary Zoning

Inclusionary zoning shifts the geography of our affordable housing stock to assure that affordable housing is a part of all new development in areas of high opportunity. Integration of affordable units into market-rate projects creates opportunities for households with diverse socioeconomic backgrounds to live in the same developments and have access to the same types of community services and amenities. The need for integration is great. People living in poor neighborhoods are typically isolated from high-quality schools to educate their children, living-wage jobs and quality transportation to access job centers, parks and open spaces that can improve health outcomes, and adequate health services. Additionally, neighborhoods with a high concentration of poverty typically have higher crime rates, dropout rates and teenage pregnancies. Inclusionary Zoning policies help break up the concentration of poverty while giving housing opportunities to low-income residents in amenity-rich, high opportunity areas.

Residential Income Segregation and Economic Mobility

Overall economic income inequality in the US has increased since the 1970s, and research shows that residential segregation by income has increased as well.⁶ Residential segregation by income describes the extent to which families of different incomes live in different neighborhoods. A recent study finds clear evidence that “income segregation has grown rapidly, particularly in the last decade and particularly among black and Hispanic families.”⁷ This is important because the demographic composition of neighborhoods is strongly correlated with *neighborhood effects*, such as poverty rates, educational attainment levels, teenage birthrates, and the proportion of single-parent families. Income segregation amplifies the negative effects of the unequal distribution of collective resources, such as high quality schools or public parks, as well as public hazards, such as pollution or crime, among neighborhoods. Higher residential segregation are found to also have negative fiscal impacts on municipalities, straining already-limited public resources.⁸

Residential income segregation also can lower overall *economic mobility*, which refers to the ability of a child born to lower- or middle-income parents to climb higher on the income ladder, or, in other words, the American Dream. A 2013 study by the Equality of Opportunity Project recently found substantial variation in the economic outcomes of children from low-income families across areas of the U.S.⁹ Depending on where you live in the US, you have a lesser or greater chance of earning a higher income than your parents. The researchers examined economic mobility in terms of racial and income segregation. They found that a higher level of residential income segregation is correlated with lower levels of economic mobility. Areas in which low-income residents were residentially segregated or isolated had lower rates of economic mobility. If people are not interacting with a wider mix of society and people of different income levels, then it translates into less mobility over time and children and communities are trapped in the same income bracket from one generation to the next. Inclusionary Zoning is a key element to foster mixed-income communities that help to break this cycle of stagnation.

IZ and Education

Inclusionary Zoning policies can improve educational outcomes, especially among low-income students. Affordable housing units built within new market-rate developments are more likely to give those residents access to low-poverty, high-performing schools.¹⁰ In the case of

⁶ Bischoff, K., & Reardon, S. (2013) “Residential Segregation by Income, 1970-2009.” in Logan, R. Ed.: *The Lost Decade? Social Change in the U.S. after 2000*. Russell Sage Foundation.

⁷ Bischoff, K., & Reardon, S. (2013). Ibid. p. 1

⁸ Schneider, M., & Logan, J. R. (1981). Fiscal Implications of Class Segregation Inequalities in the Distribution of Public Goods and Services in Suburban Municipalities. *Urban Affairs Review*, 17(1), 23-36.

⁹ Chetty, R., Hendren, N., Kline, P., & Saez, E. (2013) “Summary of Project Findings.” The Equality of Opportunity Project. Retrieved October 20, 2013 from <http://www.equality-of-opportunity.org/>.

¹⁰ Heather L. Schwartz, Liisa Ecola, Kristin J. Leuschner, and Aaron Kofner. (2012). *Is Inclusionary Zoning Inclusionary?* RAND Corporation, 13–21.

Montgomery County Maryland, roughly one third of the affordable units produced under IZ are owned by the local housing authority, and provide public housing for families living under the poverty line. The children of these families on average have access to better performing schools than other children of poverty in the surrounding area. After conducting a longitudinal study, researcher Heather Schwartz found that, “over the course of elementary school, highly disadvantaged children with access to the district’s lowest-poverty neighborhoods and schools began to catch up to their non-poor, high-performing peers, while similar disadvantaged children without such access did not.”¹¹

Healthy Neighborhoods and Transportation Accessibility

Our ability to live healthy lives is influenced by the circumstances and environments in which we live. Many factors throughout our lives influence health, such as: economic opportunity, educational attainment, access to services, and environmental conditions. The quality of our home environment is one of these important factors and greatly impacts our health. Improving access to quality affordable housing is one strategy to reduce health disparities related to substandard housing.¹²

Substandard or uninhabitable housing impacts health through several pathways including but not limited to: exacerbating chronic health conditions, unintentional injuries such as falls or electrocution, and lead-poisoning.¹³ Low-income communities and communities of color are more likely to experience housing that is substandard and in-turn the related health effects¹⁴. Locally, mold is of particular concern. It is a common symptom of a property being poorly maintained and poses significant health risks, including asthma. In Oregon low-income and communities of color experience asthma more than other populations¹⁵. Those same groups are also more likely to be renters.^{16,17}

In Oregon, as in any other state, some communities are simply healthier than others. Health-promoting or “complete” communities offer access to healthy food options, adequate transportation systems, safe streets with low traffic, sidewalks and street lighting, usable open space, and opportunities for physical activity. Low-income residents are less likely to live in healthy neighborhoods, as they are often less affordable. Lack of sidewalks, bike paths and

¹¹ Schwartz, H. (2010). *Housing policy is school policy: Economically integrative housing promotes academic success in Montgomery County, Maryland*. Century Foundation.

¹² Cohen, Rebecca. The Health Impacts of Affordable Housing on Health: A Research Summary. *Insights from Center for Housing Policy*. 2011

¹³ Multnomah County Health Department. Health Impacts of Housing in Multnomah County. Portland, OR; 2009.

¹⁴ Krieger J, Higgins DL. Housing and health: time again for public health action. *Am J Public Health* 2002

¹⁵ Garland, Rodney. Evaluation of the Oregon Asthma Program Surveillance System. Oregon Health Authority. Portland, OR; 2009

¹⁶ U. S. Census Bureau. 2006-2010 American Community Survey: Table B25119: Median household income the past 12 months (in 2010 inflation-adjusted dollars) by tenure. Available at: factfinder2.census.gov.

¹⁷ U. S. Census Bureau. 2010 Census Summary File 1: Table H14: Tenure by race of householder. Available at: factfinder2.census.gov.

recreational areas in some communities can discourage physical activity and contributes to obesity. Income segregation has also been linked to obesity and negative mental health outcomes, and can limit low-income residents' access to healthy food since high-poverty neighborhoods are more likely to be in a food desert.¹⁸ Inclusionary Zoning can improve health outcomes for low-income residents, and as a result, reduce health-care costs for all Oregonians.

Traffic congestion, long commutes and air pollution are also significant challenges for all Oregonians. Many working individuals and families are not able to afford housing near to where they currently work, or regional job centers with future employment opportunities. Inclusionary Zoning policies can bring the workforce closer to jobs. This in turn reduces reliance on personal vehicles, and decreases air pollution, risk of collisions, and congestion. Oregon has made and will continue to make large and expensive investments in transportation projects, such as highways and public transit. Inclusionary Zoning can leverage these public investments to ensure that their benefits are shared equitably among all income levels, and that residents are not “priced out” if these investments lead to rising rents and real estate values. Inclusionary Zoning is a critical component in creating complete, healthy communities where essential amenities are easily accessible to everyone. Reductions in vehicle miles traveled, improve air-quality and slow climate change by reducing greenhouse gas emissions.

IZ and Fair Housing

Federal Fair Housing law requires that governments work to ensure that all residents have equal access to housing opportunities. Under the Federal Fair Housing Amendments Act of 1988 (“FHAA”), it is a violation to “deny or otherwise make unavailable” housing opportunities on the basis of race, color or national origin.¹⁹ Furthermore, under Executive Order No. 12892, recipients of federal funding for “all programs and activities related to fair housing and development” have a duty to affirmatively further fair housing.²⁰ 48 states allow jurisdictions to use IZ, and use it to implement their affordable and fair housing goals in accordance with federal law. The use of mandatory IZ has been an effective tool to maintain an acceptable level of affordable housing and reduce segregation.

Oregon’s ban on the use of mandatory inclusionary zoning (O.R.S. § 197.309²¹), eliminates a

¹⁸ Hood, E. (2005). Dwelling disparities: how poor housing leads to poor health. *Environmental Health Perspectives*, 113(5), A310.

¹⁹ 42 USC § 3604

²⁰ Executive Order 12892, LEADERSHIP AND COORDINATION OF FAIR HOUSING IN FEDERAL PROGRAMS: AFFIRMATIVELY FURTHERING FAIR HOUSING.

²⁰ “[A]ll executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of the [Fair Housing Act] ... the phrase programs and activities shall include programs and activities operated, administered, or undertaken by the Federal Government; grants; loans; contracts; insurance; guarantees; and Federal supervision or exercise of regulatory responsibility (including regulatory or supervisory authority over financial institutions).”

²¹ **ORS 197.309 Local ordinances or approval conditions may not effectively establish housing sale price or designate class of purchasers; exception.** (1) Except as provided in subsection (2) of this section, a city, county or metropolitan service district may not adopt a land use regulation or functional plan provision, or impose as a

policy tool that local jurisdictions can use to fulfill these federal law requirements. The ban interferes with local jurisdictions' ability to combat barriers to fair housing and it effectively makes fair housing "unavailable" to groups of people protected under federal law.

For example, Portland's private housing market is currently failing to meet the federal fair housing standard. Low- and moderate-income minorities from traditional communities of color are being displaced from areas like Northeast Portland,²² where developers are constructing new apartment buildings without replacing affordable units. With a continued ban on mandatory IZ, Oregon jurisdictions lack an important tool to promote mixed-income neighborhoods, reduce segregation, and meet their obligation to affirmatively further fair housing.

The IZ Ban Restricts Affordable Housing Provision and Promotes Segregation

Mandatory IZ would make a fair distribution of affordable housing available to racial and ethnic minorities in the Portland metro region, as well as the rest of Oregon, and the ban makes housing "otherwise... unavailable" to protected groups, in violation of the FHAA, and should be repealed. A statistical analysis demonstrates that the IZ ban has restricted affordable housing options for low-income minority residents in the Portland Metro Region. In 2009, 40.6% of African-Americans in Multnomah County paid over 50% of their income on rent, compared with 24.28% of Whites.²³ For persons who owned homes, 22.02% of Hispanics and 28.19% of African-Americans paid over 50% of their income on housing, compared with 11.61% of Whites. Mandatory IZ could provide a significant tool to address this racial stratification by providing a more equitable distribution of low-income housing. Mandatory IZ would help make a fair distribution of affordable housing available to racial and ethnic minorities in cities and regions throughout Oregon.

The result of the ban on mandatory IZ in Oregon is that racial and economic segregation not only continues in our neighborhoods, but it is actually increasing. The 2010 Census revealed that 38 census tracts within the City of Portland alone became whiter in the last decade, with more Whites moving in and many people of color, especially African-Americans, moving out.²⁴ In North and Northeast Portland, African-American homeowner and rental rates both declined by

condition for approving a permit under ORS 215.427 or 227.178, a requirement that has the effect of establishing the sales price for a housing unit or residential building lot or parcel, or that requires a housing unit or residential building lot or parcel to be designated for sale to any particular class or group of purchasers.

²¹ (2) This section does not limit the authority of a city, county or metropolitan service district to:

²¹ (a) Adopt or enforce a land use regulation, functional plan provision or condition of approval creating or implementing an incentive, contract commitment, density bonus or other voluntary regulation, provision or condition designed to increase the supply of moderate or lower cost housing units; or

²¹ (b) Enter into an affordable housing covenant as provided in ORS 456.270 to 456.295. [1999 c.848 §2; 2007 c.691 §8]

²² Melissa Navas, "North Williams traffic safety plan gives neighbors a chance to delve into deeper issues of race, gentrification," *The Oregonian*, August 11, 2011, at http://www.oregonlive.com/portland/index.ssf/2011/08/north_williams_traffic_safety.html (Accessed Dec. 26, 2011).

²³ According to 2009 Census data. *Portland Housing Needs Assessment*, at 44.

²⁴ U.S. Census 2010, at <http://2010.census.gov/2010census/> (Accessed Dec. 26, 2011).

over 30%.²⁵ This displacement has caused increased economic and racial segregation and distanced minority communities from the benefits of public investment. The inability of local and regional governments to require set-asides for low-income residents in new developments and infill projects is a barrier to equal housing opportunities for racial minorities.

The ban on mandatory IZ disproportionately harms low-income minority residents because it increases economic and racial segregation. In order for local jurisdictions to fulfill their obligation to affirmatively further fair housing, which includes a duty to integrate housing, the ban on mandatory IZ should be lifted.

Voluntary vs. Mandatory IZ

Cities and counties implementing a new inclusionary zoning ordinance decide whether to utilize a mandatory or voluntary program. Voluntary programs are often seen as more politically palatable, and less likely to face legal challenges. Voluntary programs, however, are only effective in jurisdictions with highly restrictive, onerous, *exclusionary* zoning practices and regulations, such as minimum lot sizes, low density maximums and FAR ratios, high parking minimums, strict design standards, long permitting process periods, and high development fees. These restrictions increase the costs of new developments, and can drastically reduce the private market's ability to provide housing for low- and middle-income families. Since each of these restrictions incur a cost on the developer, offering them as incentives produces a monetary value to the developer that can offset the costs of including affordable units. One significant disadvantage to a voluntary program's effectiveness is that it is often administered on a case-by-case basis, where the incentives and the affordable unit set asides are often negotiated for each new development. This increases financial and administrative burdens on both parties and reduces the overall quantity of affordable units. If the public or neighbors are involved in negotiations, this can lengthen the process and further decrease the level of certainty and predictability the developer needs to make the project successful.

Mandatory policies offer reliability and predictability of all parties involved, and produce more affordable units overall. Mandatory programs provide predictability to developers by setting clear and consistent expectations and a level playing field. The value or price of land is directly related to what can be built on it. Thus, when developers or real estate investors bid on a property for sale, if the zoning codes are clear and consistent, each party will take these limitations into consideration and price their bids accordingly. The cost of land is a significant factor to determine whether a new development is profitable for the developer, and/or affordable to middle- and lower-income families. Like other zoning regulations, mandatory IZ policies with clear cost offsets and requirements offer the buyer and seller of land, as well as neighbors and the

²⁵ Nikole Hannah-Jones, *In Portland's Heart, 2010 Census Shows Diversity Dwindling*, The Oregonian, http://www.oregonlive.com/pacific-northwest-news/index.ssf/2011/04/in_portlands_heart_diversity_dwindles.html (accessed Dec. 26, 2011).

permitting jurisdiction, the information needed to make efficient decisions about the allocation of resources.

According to a 2003 study of 107 local IZ policies throughout California, 101 were mandatory and produced far more affordable units than the six that were voluntary. Three of the six produced no units at all, and two locales, Los Alamitos and Long Beach, “blame the voluntary nature of their programs for stagnant production despite a market rate boom.”²⁶ In other parts of the country, Cambridge MA, Irvine CA, and Pleasanton CA and Boulder CO, among others, have switched from voluntary to mandatory due to a lack of production of affordable units under the voluntary program. All justifications experienced an increase in affordable housing production under the new mandatory policy. Orange County, CA did the opposite by converting from a mandatory to voluntary IZ policy in 1983. *In the 4 years before the switch, the county produced 6,389 units under the mandatory policy, and produced only 952 units in the 11 years after the switch to a voluntary program.*²⁷ In 2013, Brooklyn (New York) City Councilman Brad Lander²⁸ and the Association of Neighborhood and Housing Development (ANHD) each published reports finding that New York City’s voluntary Inclusionary Housing Program (IHP) failed to produce an adequate number of affordable units, less than 2% of multi-family units produced in the same period. The ANHD report found that NYC could reasonably generate 4,000 units per year with a mandate, instead of the current average of 400 per year under the voluntary program.²⁹

Case Studies: Failed Attempts at Voluntary IZ in Oregon

North Bethany, Washington County

Washington County was the fastest growing county in Oregon from 2000-2010, and currently has the highest median family income in the state. In 2002, leaders of Metro and Washington County opened the North Bethany area to eventual development, with the expectation that it would include affordable housing.³⁰ The two governments agreed to the goal that 20 percent of owner-occupied properties would be available to families making less than 80% of the Area Median Income, and 20 percent of rentals would be available to families making less than 60% AMI. In 2010 the Washington County Board of Commissioners adopted

²⁶ Non-Profit Housing Association of Northern California. (2003). *Inclusionary Housing in California: 30 Years of Innovation*. p. 8

²⁷ Brunick, N. (2004). The Inclusionary Housing Debate: The effectiveness of mandatory programs over voluntary programs. *Zoning Practice*, 9(1), 1-7.

²⁸ Lander, B., Freedman-Schnapp, M., & Ullman, S. (2013). *Inclusionary Zoning in New York City: The Performance of New York City’s Designated Areas Inclusionary Housing Program since it launch in 2005*. Office of Council Member Brad Lander.

²⁹ Association for Neighborhood and Housing Development. (2013). *Guaranteed Inclusionary Zoning: Ensuring affordability is part of New York City’s future*.

³⁰ Schmidt, B. (2012, June 2). “Homebuilders block efforts by Washington County leaders to include affordable housing: Locked Out, Part 4.” *The Oregonian*. Retrieved October 20, 2013 from www.oregonlive.com.

recommendations to offer a mix of incentives to developers, such as the ability to build extra units (density bonus), tax abatements and other incentives.

In 2010 and 2011, officials from the County negotiated with West Hills Development Co, to include affordable units in the new Arbor Oaks development, in the area of the new North Bethany development site, recently included in the latest UGB expansion. County Commissioner Greg Malinowski, who helped offer the incentives in exchange for affordable units, was rebuffed by lawyers who insisted that the developer should keep the incentives but not mandate affordable housing, and that the County “should change the rules to allow the incentives, but not in exchange for affordable housing.”³¹ A West Hills lobbyist called the link to affordable housing “coercive and disadvantageous.”³² West Hills is the largest landowner in the North Bethany development area, and has refused to include affordable units in any of the current or future development projects.

Portland Downtown Neighborhood Association

A similar story is unfolding in Portland, where the Downtown Neighborhood Association (DNA) is pushing a vision of mixed-income housing. The area has a mix of luxury, private-market condominiums, and well as subsidized or publically-owned affordable housing, but not many opportunities for middle-income, or lower-middle-income housing. City planners and the DNA have attempted to offer incentives to developers, not only to make units more affordable, but to include larger 2- and 3-bedroom units for small families. Downtown’s zoning is almost entirely high-density apartments, and there are relatively few incentives available that can be used as valuable offsets.

Downtown developers claim that market-rate units can allow for diverse incomes, since units on higher floors are more expensive than lower floors, and floor plans can be configured differently. Master Development from Eugene pitched a new development at SW 11th Ave and Market Street, marketed to young professionals, single people and graduate students, but did not have plans for multi-bedroom units available to middle-income families. DNA president Felicia Williams states that “right now, we have extreme poverty and wealth, but not a lot between,” and DNA land-use chair says “affordable housing is actually not affordable.”³³ The statewide prohibition on mandatory IZ was specifically stated as an obstacle in their efforts.

³¹ Malinowski, G. (2013, March 22) Testimony given at Oregon House of Representatives Human Services and Housing Committee Hearing (Salem OR).

³² Schmidt, B. (2012, June 2). Ibid.

³³ Hottman, S (2013, March 21). Downtown Neighborhood Association pushes development vision as apartment projects abound.” The Oregonian. Retrieved October 20, 2013 from www.oregonlive.com.