

Passing a Mandatory Inclusionary Housing Ordinance: Lessons from San Francisco and San Diego

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Abstract

A mandatory inclusionary housing ordinance is a strong act on behalf of a city government in support of housing affordability. This paper examines the conditions and decision making processes that enabled San Francisco and San Diego to pass mandatory inclusionary housing measures, with the intent of developing recommendations for other large cities that wish to undertake similar programs. Three factors are identified as important in the successful passage of inclusionary housing ordinances: the involvement of a broad-based housing coalition, the existence of forums for negotiation between stakeholders, and the incremental enactment of tenets.

Introduction

The concept of inclusionary zoning arose in the 1970s as a strategy to develop affordable housing in a political climate defined by exclusionary zoning and federal funding cutbacks. Today, localities use inclusionary zoning as a tool to increase their low-cost housing stock through private market development. Often this end is achieved through a citywide ordinance which mandates that new projects, over a threshold size, rent or sell a portion of their units at reduced rates. Although mandatory citywide measures have the highest potential of being able to increase a locality's affordable housing stock, the proposal, passage, and implementation of these ordinances often are hindered by building industry opposition and negotiation stalemates. For instance, even though Los Angeles city officials proposed a mandatory measure in 2004, it had yet to reach a council vote by the summer of 2007.

The purpose of this paper is to examine the conditions and bargaining strategies that enabled San Francisco and San Diego to pass mandatory

inclusionary housing measures, with the intent of developing recommendations for other large cities that wish to undertake similar programs. The first section reviews the collaborative planning framework and applies it to existing literature on inclusionary housing. The next two sections establish the research methodology and describe the historical use of inclusionary housing in California.¹ The bulk of the paper recounts the conditions and decision making processes that enabled the passage of mandatory ordinances in San Francisco and San Diego. Three factors are identified as having increased the success of their efforts: involvement of a broad-based housing coalition, existence of forums for negotiation between stakeholders, and incremental enactment of tenets.

Focusing on the Process of Passing an Ordinance

This research study is informed by the theoretical framework of collaborative planning, which stresses the importance of interaction between groups for planning processes to be meaningful and effective (Goodschalk and Mills 1966, 88). At its heart, collaborative planning involves long term face-to-face interaction between different interests who share information to reach consensus (Booher and Innes 2002; Margerum 2002; Innes and Booher 1999; Lowry et al. 1997; Healy 1997; Innes 1996; Fulton 1989; Gray 1989; Forester 1989; Susskind and Cruikshank 1987). These processes require numerous conditions to be effective, including an inclusive environment, presence of an impartial facilitator, and an ability to share power (Margerum 2002). Collaborative planning can have a transformative effect on group decision making processes. By sharing technical information, group learning occurs, which can change diverse stakeholders' perspectives on controversial issues (Wheeler 1993; Pitkin 1981; Smith 1991, cited in Wheeler 1993). Furthermore, the outcomes of these processes can inform future policy debates (Reich 1988).

Few studies have used a collaborative planning framework to examine the process of passing controversial local housing regulations, let alone inclusionary zoning ordinances. Existing literature on inclusionary zoning focuses more on ordinance effect than on the process of its passage. A wealth of policy reports debate the legal, social, and economic tenets of inclusionary zoning and examine the best practices of implemented ordinances, as well as their suitability for particular regions (Rivinis 1991; Brown 1991; Dietderich 1996; Smith et al. 1996; El Mallakh 2001; Fischer and Patton 2001; Brown 2001; Kautz 2002; CCRH and NPHANC 2003; Higgins 2003; Fox and Rose 2003; Ross 2003; Powell and Stringham 2004). The negotiation processes leading to the passage of a mandatory

ordinance are addressed peripherally in Calavita et al. (1997), National Housing Conference (2002), Brunick et al. (2003) and Brunick (2004), and centrally (although briefly) in Calavita (2002) and Center for Community Change (2004). Combined, these reports identify grassroots organizing efforts, a negotiation mechanism that includes developers, and a pervasive affordable housing crisis as factors contributing to ordinance passage.

More research is needed on the process of passing an inclusionary ordinance through the perspective of public sector, private sector, and grassroots actors. While analyses of an ordinance's effect may help cities in deciding whether or not to undertake an inclusionary campaign, such research does not guide actual implementation. By using a collaborative planning framework to illustrate the processes involved in passing an ordinance, rather than its effect, this paper contributes to the research knowledge on the role of various inclusionary housing stakeholders. Furthermore, it informs large cities considering undertaking an inclusionary zoning process of the conditions and strategies that existed in San Francisco and San Diego that may have contributed to the success of those cities' efforts.

Methodology

This study uses an interview-based approach to recount the processes that occurred in each locality and gauge the impact of different factors on ordinance passage. Participants were identified from newspaper articles about inclusionary zoning in San Francisco and San Diego. All listed advocates, lawyers, policy makers, academics, and public officials were contacted twice by phone and email, if applicable. All interviews were conducted over the phone. Questions addressed the participant's involvement, perceptions of important factors enabling and hindering the process, and advice to planners in other cities who wish to pass a mandatory inclusionary ordinance. At the end of the interview, the participant was asked to name other individuals who were involved in the inclusionary housing process and would be interested in participating in this study. Ten interviews were conducted: six with San Francisco and four with San Diego participants. Although quotes taken from newspaper articles are attributed to the speaker by name, quotes taken from the interviews are reported anonymously. An agreement of confidentiality was especially important in enabling interviewed public officials to talk candidly about the process. In addition to stakeholder interviews, newspapers, public meeting minutes, and policy documents were analyzed to add internal validity to participants' claims and better construct the ordinance proposal and passage process.

Inclusionary Zoning in California

Inclusionary zoning first arose in the 1970s as a strategy to develop affordable housing in economically segregated suburban areas. Legal rulings from other states, such as *Mount Laurel I* and *Mount Laurel II*, established the unconstitutionality of exclusionary zoning, reinforced the validity of “fair share” housing policies, and required localities to develop programs to increase housing affordability (Calavita 2004). Waning federal funding for low-income housing was also a contributing factor to the development of inclusionary policies. During the Nixon and Reagan presidencies, federal support went from low-income housing production programs to Community Development Block Grants and Section 8 vouchers, compelling local and state governments to develop private sector strategies to meet housing affordability needs.

In California, inclusionary policies were induced through the passage of the 1975 California Housing and Home Finance Act, which required localities to include provisions to house a variety of income groups in their plans. The state legislature expanded on this measure in 1980 by compelling localities to develop policies to meet their “fair share” of their region’s affordable housing gap, which would be a part of the Housing Element of their General Plans (Calavita and Grimes 1998; Section 65583 of Government Code). The Element mandated that localities plan and develop housing for “all economic segments of the community” (Section 65583 of Government Code). Without additional developer incentives or strong monitoring, however, less than one-fifth of communities complied with the law (Porter 2004).

As housing affordability worsened during the 1990s, more cities began to implement inclusionary programs (Yu 2004). Currently, California has more inclusionary ordinances than any other state. According to the Non-Profit Housing Association of Northern California (2003), there are at least 107 cities and counties with inclusionary housing policies. As of 2003, these cities had produced about 34,000 units (California Coalition for Rural Housing and Non-Profit Housing Association of Northern California 2003). Two of the largest cities that have implemented mandatory ordinances are San Francisco and San Diego.

Inclusionary Housing in San Francisco

In 1992, the San Francisco Board of Supervisors adopted a limited inclusionary housing ordinance for Planned Unit Developments (PUDs) and projects requiring a conditional use permit to provide more housing for low-income households (Brunick et al. 2003). However, the city’s lack of

developable vacant land and its arbitrary policy application rendered the ordinance ineffective. Instead of increasing affordable production, live/work units, which were exempted from the requirements, proliferated during this period (Doherty 2002). In 1997, amidst the dotcom boom, the San Francisco Planning and Urban Research Association (SPUR) authored a policy paper arguing that the limited inclusionary ordinance should be expanded citywide. That same year, Bay Area Rapid Transit (BART) Director and housing advocate Tom Radulovich saw a presentation by the Silicon Action Coalition and talked with SPUR members about starting a similar housing coalition in San Francisco. One participant recalled, "We wanted to make it easier to do [inclusionary housing] by right rather than by use ... we started discussing it in terms of a baseline requirement with a smaller increment."

The Housing Action Coalition (HAC), which emerged out of these discussions, was composed of a variety of interests, including environmentalists, development representatives, neighborhood groups, low-income housing activists, and the Chamber of Commerce (Impellizzeri 2002). To reduce conflict, the group has consciously balanced developer and housing advocate interests on its board, which cannot include more than 49 percent of either group. In 2000, HAC members began to debate the tenets of an inclusionary housing policy. After advocates proposed a ten-percent low-cost housing set-aside, debate erupted between the non-profit and for-profit developers, who were hesitant to support it. Oz Erickson, a developer and HAC member, was instrumental in stitching a compromise between the groups. During one meeting, he presented a *pro forma* showing that a ten-percent ordinance could work. As one advocate recalled, after that "the developers said it's too much, but we can live with it, and the activists said it's too little, but we can live with it."

During that time, the HAC, along with the Council of Community Housing Organizations (CCHO), led by Calvin Welch, started "shopping around interest at the Board of Supervisors on making inclusionary zoning a freestanding issue." The CCHO was very sensitive about recruiting at least one other moderate supervisor because of mayoral veto power on split votes. They found that moderate Supervisor Mark Leno was "generally concerned about housing affordability," a strength given that he "was perceived by the development community as the most moderate supervisor ... if Mark went for something, they had to go for it." Once on board, Supervisor Leno convened an advisory committee to bring developers into the fold and "build some sort of consensus around the legislation."

The tenets of the inclusionary ordinance emerged through HAC meetings and in Supervisor Leno's office. The compromises took place, one participant recalled, "though sitting down in meetings and having

Oz Erickson ... run figures in his head ... then consulting on the more progressive side.” The most contentious issues were the set-aside and project size that would trigger the ordinance. In addition, the city attorney, wary of a legal challenge, insisted that “maximum choice had to be offered to developers in meeting the requirements,” which included an option to build units offsite. He also conceded to developers’ requests that they would be able to decide how to meet the requirements late in the process, an element that angered housing advocates. *San Francisco Business Times* journalist Brian Doherty described the negotiation process as follows:

On one side were the advocates who wanted 25 percent of housing projects affordable, and on the other side of the table were developers fighting to have no affordable housing requirement. Finally, a hotly discussed compromise was forged. Raised beyond a certain tipping point, say 15 percent on-site with no off-site option, the inclusionary zoning would have prevented developers from building any new units for the market. But 10 percent affordable seems tenable, and the developers like the clear path it provides. (Doherty 2002, online source)

These debates developed into an ordinance that most groups accepted, if not supported: a shifting set-aside depending on whether units were built onsite or offsite. On the role of the HAC in getting an expanded inclusionary ordinance on the table, *San Francisco Business Times* journalist Laura Impellizzeri described, “For the first time...key people working on all sides of the housing crisis began meeting regularly and working together...That’s started to temper at least some of the traditional neighborhood opposition to additional housing in their midst” (Impellizzeri 2002). In terms of the dynamics of the negotiations, one of the advocates explained, “having a progressive Board brought developers to the table; they thought they might get something higher.” But at the same time, non-profit advocates were at the table, because they knew the mayor might veto. In sum, “both sides had leverage.”

On June 18, 2001, Supervisor Leno along with three of his colleagues introduced the inclusionary housing legislation before the Board. A 2002 editorial in the *San Francisco Business Times* described the proposal as “a long and gently nurtured compromise,” which “[l]ike most good compromises, this one doesn’t make anyone completely happy. Some low-income housing advocates think a ten percent requirement is too low; developers, of course, would prefer it to be lower still—say, perhaps, zero” (*San Francisco Business Times* 2002). The following year, the Board of Supervisors approved legislation for a Residential Inclusionary Affordable Housing Program by ten votes to one.

The tenets of the ordinance included the following:

- 10-percent onsite set-aside on projects of 10 units or more, or 15-percent offsite;
- Rental units were targeted to households earning 60 percent of the area median income (AMI), for-sale units were targeted to households earning 100 percent AMI;
- Units remained affordable for 50 years, and for-sale units had financial recapture restrictions.

In return for complying with these requirements, developers were eligible for permit or environmental review fee waivers. They also had the option of paying an in-lieu fee assessed according to the projected value of the onsite affordable units (Brunick et al. 2003).

The year following its passage, however, the ordinance had produced only 90 affordable units. In 2004, the *San Francisco Examiner* found that although developers built units for middle-income people, few units were being built for low income people (Hampton 2005a). Supervisor Chris Daly commented on this phenomenon, “It seems that when we adopted the original legislation there were many developers who were against it and said it would kill housing projects. That’s clearly not the case. It begs the question I’ve been asking, ‘is it too low?’” (Hampton 2005b).

After successfully convincing a developer to incorporate a 25 percent set-aside in his project to receive faster approval, Daly commissioned a report to assess the impact on raising the requirements to 20 to 25 percent. In return, the Planning Department and the Mayor’s Office on Housing set up a technical advisory group chaired by developer Oz Erickson and community activist Calvin Welch and staffed by a variety of for-profit, non-profit, and community groups. Eventually, Daly merged his proposals with those of Supervisors Sophie Maxwell and Jake McGoldrick, who proposed geographic limits to offsite development and lowering the target project size. In terms of the three proposals, Daly’s set-aside increase was the most contentious. In general, there was “no unified force” within the HAC membership about the proposed changes, although compromises—such as advocates’ concession to developers regarding grandfathering—took place. When consultants found that developers would be hesitant to build with a 20 to 25 percent set-aside, since they expect to make at least 18 to 28 percent profit per project, Daly lowered the proposed increase to 15 to 20 percent. He explained, “Yes, I’ll push the envelope, but that doesn’t mean I won’t take a good deal” (Jones 2006). HAC member and developer Oz Erickson responded, “15 percent was a compromise and we were very reluctant to see it go...to 15 percent” (Jones 2006).

The Planning Commission approved the redrafted ordinance on July 12, 2006. The hearing was attended by a diverse group of individuals, including private developers, city staff, and activists who wore "Housing Justice Now" stickers (Jones 2006). Although some developers attempted to lessen the ordinance requirements during the hearing, later that month, the Board of Supervisors voted unanimously for them. On August 10, 2006, Mayor Gavin Newsom signed the ordinance into law. During this event, Daly commented on the process, "This legislation...would not have been possible without the tireless advocacy of many community organizations..." (Office of the Mayor 2006).

Inclusionary Housing in San Diego

The concept of inclusionary zoning first arose in San Diego in 1972 when the City wrote a "Balanced Communities Policy" to promote racial and economic integration, but the measure was abandoned because it lacked the appropriate implementation tools (Calavita 2000). Various efforts to pass a citywide inclusionary zoning ordinance arose between 1991 and 1994, but failed in part because they excluded building industry representatives from the formal negotiation process. In the fall of 1991, the Housing Commission formed an inclusionary zoning task force composed of builders, housing advocates, and community activists to develop a new proposal. Their recommendations included a 5 percent set-aside at 50 percent Area Median Income (AMI) for rental buildings and a ten percent set-aside at 80 percent AMI for for-sale buildings that would cover projects of seven or more units. Incentives such as a fee deferral, a 25 percent density bonus, and expedited review were included in the proposal. Since developers wanted the option to build units offsite, and community groups wanted affordable units onsite, the task force compromised by giving the option to build units offsite but in the same planning area. In their report, the Committee stated that their recommendations "recognize both the enormity of the housing crisis and the need to avoid saddling the private sector with onerous requirements which would further impair its ability to provide affordable housing" (Weisberg 1992, F9).

Amidst the ongoing struggle for a citywide ordinance, voters, worried about the overdevelopment of high-cost housing on the urban fringe, approved a 20 percent mandatory inclusionary set-aside for the North City Future Urbanizing Area (NCFUA) in 1992. The following year, the Council endorsed the task force's plan for a citywide ordinance and allocated four months to review it. However, a slow real estate market fueled the Building Industry Association (BIA) and the California Association of Realtors' opposition to a mandatory measure (Inman

1993). Persuaded by BIA opposition, the Council delayed voting on the ordinance and asked the City Manager to return with a workable set of incentives. Due to the building industry's unwillingness to comply with a mandatory measure, the proposal process stalled (Weisberg 1995).

In 2000, a worsened housing affordability crisis compelled the City to renew their inclusionary zoning attempts. In a June 2000 *San Diego Union Tribune* article, San Diego resident and inclusionary housing scholar Nico Calavita exclaimed, "Not a day goes by without a newspaper article or editorial ringing the alarm—we've got a housing crisis on our hands!" (Calavita 2000, B-11). He suggested that the City package developer cost offsets, such as phasing, into the program to ameliorate fierce building industry opposition (Calavita 2000). Shortly after, the City formed an Inclusionary Zoning Working Group to help draft a feasible inclusionary ordinance. The group was composed of a variety of interests, including private and nonprofit developers, lending institutions and affordable housing advocates (San Diego Housing Commission 2002). One of the group's main tasks was to determine the ordinance's financial implications and recommend policies and design types that would reduce developers' financial burdens (San Diego Housing Commission 2002).

After seven months of analysis, the working group presented an inclusionary housing policy titled "Balanced Communities Housing Program" to the Housing and Planning Commissions, Land Use and Housing and Community Planners' Committees. Flexibility defined the plan: different neighborhoods, redevelopment zones, and planned developments would carry different requirements. In the end, however, the City determined that the program was too flexible and complicated and would possibly slow development (San Diego Housing Commission 2002). They decided to continue to meet with a few private and nonprofit developers to rework the ordinance. Despite their inability to bring the ordinance to a Council vote, San Diego's Inclusionary Zoning Working Group was instrumental in reviving the debate.

According to Calavita (2002), a flurry of community activism compelled widespread support for inclusionary housing, particularly the efforts of the San Diego Housing Coalition and the San Diego Organizing Project. The San Diego Housing Coalition was composed of neighborhood groups, social service providers, affordable housing advocates, community development corporations, and faith-based organizations. The Coalition revealed developers' exorbitant profits and argued that landowners, rather than homebuyers, absorb the added costs of inclusionary housing construction since developers will compel them to sell their properties at lower prices (Calavita 2002). In contrast, the San Diego Organizing Project, led by Jeremy Kaercher, consisted of 23 faith-based groups that represented more than 40,000 people. While the Coalition debunked the

BIA's contentions, the Organizing Project targeted residents' emotions and concerns. They held prayer walks and town hall meetings on inclusionary zoning across the City, culminating in a several thousand-person meeting that garnered the support of four City Council members and business, civic and religious interests (Calavita 2002; Weisberg 2002c).

Advocates and opponents first discussed the proposed ordinance at a February 2002 Land Use and Housing Committee meeting. During the event, homeless women recounted their efforts searching for low-cost apartments, activists insisted that the costs of inclusionary development be borne by landowners, and building industry representatives argued that the ordinance would increase costs for middle-class households. Many speakers developed proposals for the Committee's April 2002 meeting, which was attended by over 400 people, heavily composed of San Diego Organizing Project, Housing Coalition and BIA affiliates. At the gathering, committee members unanimously approved the following inclusionary ordinance components:

- Set-asides of 10 percent affordable units with income limits of 65 percent AMI for rental units and 100 percent AMI for for-sale units;
- Requirements would apply to projects of two or more units;
- Developers could construct units offsite in the same planning area, but developments over 250 units would be required to build onsite;
- Developers could pay an initial in-lieu fee of \$0.75/sqft that would increase to \$2.50/sqft after two years;
- And, while rental units would remain affordable for 55 years, for-sale units would have financial recapture restrictions (San Diego Housing Commission 2002, 6; Weisberg 2002b).

Advocates' reactions to the proposal were mixed. While they supported the set-aside, many questioned whether the low in-lieu fee would actually create affordable units. Despite the Committee's inclusion of their request for a \$0.75/sqft in-lieu fee, the BIA continued their campaign against the measure. More than 1,000 people, many of them low-income residents and housing activists, rallied behind the San Diego Housing Coalition and Organizing Project at the City Council's six-hour meeting on August 6, 2002 (San Diego Housing Federation 2002). At the meeting, the Council voted seven to two to adopt an inclusionary zoning strategy (Calavita 2002; Weisberg 2002a). To accommodate the BIA's concerns, however, the Council also adopted a measure to establish a task force to

review additional revenue sources for affordable housing development (Weisberg 2002a).

The Affordable Housing Task Force, appointed in December 2002, was composed of 20 representatives and experts from various interests and community groups, including environmental, building industry, academic, religious, affordable housing advocacy, and financial organizations. In their recommendations on inclusionary housing, they requested that developments of four or fewer units be exempt from the requirement and that “large-scale developments” be able to pay an in-lieu fee. They also voted to allow developers to construct affordable units within a four-mile radius of their development, rather than just in the community planning area.

A citywide inclusionary zoning ordinance was passed six votes to two by the City Council on May 20, 2003 and became effective on July 3, 2003. As compensation for complying with its tenets, developers are awarded faster permitting. They can also develop affordable units offsite within the same planning area or pay an in-lieu fee that goes into the City’s Affordable Housing Fund. The in-lieu fee is calculated based on the square footage of a lower cost unit as compared to the square footage of the total project. To mitigate the cost increase to developers, the Council voted to phase the fee over a three-year period, with it eventually reaching \$2.50/sqft or \$5,250 for a 2,100 square foot unit in a complex with ten or more units. Many housing activists were angered by the Council’s inclusion of an in-lieu fee option, since it enabled developers to get out of actually building affordable units. As Richard Lawrence of the San Diego Housing Coalition explained, “This ordinance just barely scratches the surface. We should have an ordinance that requires that units be built. The fee is a mistake. We need an extraordinarily large supply of affordable units” (Weisberg 2003, B1).

In December 2004, the Land Use and Housing Committee met to review changes proposed by various public and private sector organizations. Although they adopted measures to extend the shared equity provisions and exempt certain uses, they rejected the Housing Commission’s recommendations regarding density bonuses and the BIA’s request to change the in-lieu fee payment to when the development application was complete. In response, the BIA sued the city and secured this concession in July 2006. That same month, the in-lieu fee was raised to 50 percent of the financing gap (\$7.31 sqft). Before the fee was raised, according to one San Diego Housing Commission official, less than ten-percent of developers chose to build affordable units. Presently, stakeholders are participating in negotiations sponsored by the Mayor’s office to look into further amending the ordinance.

Criteria for Success

San Francisco and San Diego's experiences with inclusionary zoning yield multiple lessons for housing advocates in other large cities. In particular, three factors were critical to propelling these inclusionary ordinances from proposal to implementation: 1) the involvement of a broad-based housing coalition; 2) the existence of forums for negotiation between stakeholders; and 3) the incremental enactment of tenets.² While the first and second factors deal with the actors involved and the mechanisms that enabled them to reach a compromise, the third factor suggests a gradual introduction of requirements to enable ordinance passage. The following sections explain these factors in more detail by applying them to the processes that ensued in the two cities.

The Actors

Advocates in both cities cited the presence of a broad-based coalition as an important element in building the momentum for an inclusionary housing campaign. Indeed, organizations composed of a variety of housing, environmental, economic development, business, and legal groups played a large role in not only initiating a campaign, but also constructing the ordinance, securing its support by an elected official and generating the public urgency crucial to its passage. In turn, the lack of these organizations, which are also products of growing housing affordability awareness, may impede the passage of an ordinance, as was the case during San Diego's initial attempt.

In the processes previously described, the San Francisco Housing Action Coalition, the San Diego Organizing Project, and the San Diego Housing Coalition took the lead in navigating the inclusionary policies from proposal to implementation. The effectiveness of these organizations in an inclusionary campaign stems from three factors. First, they create forums to debate the tenets of the plan. Second, within these forums, stakeholders with conflicting interests are able to reveal their needs and discover others' priorities, which limit surprises and stalemates on the council floor. Third, if traditionally opposing parties are able to agree on similar goals, they are able to combine their skills to reach those goals.

Many of the San Francisco inclusionary advocates cited the union of low-income housing and environmental groups under one organization as crucial to the ordinance's passage. One public official recalled overcoming traditional NIMBY opposition to denser developments by working through the issues at monthly membership meetings. During these meetings, they developed new language to talk about inclusionary housing. He explained, "A lot of NIMBY opposition [to

denser development] is framed in terms of the environment...we framed density in terms of being greener." A San Francisco low-income housing advocate also stressed that the presence of developers in the Coalition's leadership enabled them to understand development financing and find ways to overcome the opposition's complaints. In a way, the developers served as "translators" between the building community and the housing advocates and other groups. They were especially helpful when public officials such as Supervisor Leno convened different groups to meet in his office to discuss the tenets of the ordinance.

In San Diego, two organizations played different yet complementary roles in building momentum around the inclusionary measure. One academic and affordable housing leader explained that while the Housing Coalition was effective in shaping the "ideological and political aspects of inclusionary zoning," the Organizing Project had the ability to "work the crowd" and gather the masses to hold politicians accountable at public forums. An Organizing Project leader and minister looked back on the process as follows: "We found out that we got a lot more done when we were talking...[and had] everyone's agenda on the table. Once we were talking, we found certain things that we agreed on," such as that "the [existing development] process was cumbersome and could have been streamlined a lot more." He claimed that clear communication was crucial during these negotiation processes, and it arose when members spoke with a common language about the issues.

The Mechanism for Compromise

In addition, mechanisms for compromise are needed to construct the tenets of the inclusionary ordinance. These forums can take the form of working groups or technical advisory councils, monthly meetings of a coalition, small group gatherings with individual elected representatives, or formal, public meetings before the local commissions or council. Advocates in both cities recalled constructing a set of goals regarding the ordinance during their monthly coalition meetings and learning about and negotiating with the requirements formed by the building industry or the technical advisory group in a public officials' office or public hearing. In these settings, the specific interests of different stakeholders are revealed. For instance, although the building industry tended to advocate for the lowest set-aside and highest target income group possible, they also expressed their willingness to accept stricter requirements if provisions reducing the uncertainty of their development process, such as grandfathering their existing projects, were granted. Advocates and public officials cite that knowledge of housing finance is particularly crucial in these settings in order to show developers that inclusionary housing can "pencil out."

These forums not only serve to expose the intentions of different groups, enabling compromises to take place, but also they enable broad public participation and generate local awareness about the issue. Especially after hearings before elected officials, the local papers would, for instance, print a woman's testimony about becoming homeless after failing in her search for a low-cost apartment or an academic's declaration that the working class is migrating en masse to the urban fringe, congesting traffic on local freeways. Through their representation in the media, these events enabled the inclusionary housing campaign to become a part of the public record and gave validity to efforts advocating for its passage.

A Constantly Evolving Policy

Inclusionary advocates in San Francisco and San Diego also conceived of their measures as adaptable, constantly evolving in their tenets and allowances. Each urban area first passed a small, geographically or politically limited ordinance, which over time evolved into a stricter citywide regulation. San Francisco's initial ordinance, which was arbitrarily applied to projects seeking a conditional use or PUD permit, evolved from a loose but mandatory citywide ordinance in 2002 to a more exacting regulation in 2006. San Diego's ordinance also follows this process of evolution. Preceded by a limited measure targeted to new growth areas, the citywide ordinance transformed from a proposed five-percent set-aside with no incentives to a ten-percent set-aside with an in-lieu fee and faster permitting. The fee, purposely set to adapt to market circumstances, increased from \$0.75/sqft to \$7.31/sqft over the three years following its instatement.

In both cities, participants conceived of the inclusionary process as continually in transition. They sought to pass a limited policy with the intention of developing it into a stricter measure in the future. As one San Francisco neighborhood activist explained:

We knew flat out that it was going to be a compromise. Until you get something on the books, you couldn't go any further. We made sure that it wasn't too demanding, there are ways to compromise it ... we didn't structure it so tightly that you couldn't find some way of handling it. We said flat out, it will take five years to get stuff through the pipeline, at that time it had to be improved. This is exactly what happened. What happened is everyone says we can live with this; we can do a little more. Our main thrust was to get something on the books.

He added that activists should first try to get a measure passed that is "sufficiently innocuous" because true influence lies in passing legislation

that is amendable at a later date. Although passing a weak initial ordinance mollifies the development industry, it institutionalizes the process of adding to the affordable housing stock through market rate development. The lament of one public official that the city had passed a “toothless ordinance” was changed three years later when advocates were able to increase the fee to 50 percent of the cost of constructing an affordable unit, a revision that has the potential to add thousands more in revenue to building low-income housing.

Conclusion

This article has used a collaborative planning framework to illustrate three conditions that contributed to the success of passing a mandatory inclusionary housing ordinance in San Francisco and San Diego: involvement of a broad-based housing coalition, existence of forums for negotiation between stakeholders, and incremental enactment of tenets. While the first two conditions provide spaces for conflict resolution, the last condition suggests that an adjustment period may be necessary to pass controversial local regulations.

Although this study serves as a first step in helping planners better prepare for the process of passing an inclusionary ordinance, a few considerations must be taken into account. First, this research does not sufficiently document the role of developers and other building industry representatives in this process. More research based on interviews with these actors is needed to determine the role that forums for negotiation and incremental regulation adoption play from their perspective. Second, in addition to these general criteria for success identified by San Francisco and San Diego inclusionary housing participants, characteristics specific to each city’s culture and political climate also contributed to ordinance passage. For instance, San Francisco participants stressed the influence of the city’s political progressivism, which has built “a culture of exactions” that limits building industry opposition. On the other hand, in San Diego, a progressive council majority was crucial to enabling the ordinance’s passage. In general, the sense of a pervasive affordable housing crisis is also needed to induce widespread support for remedial measures. Finally, as other housing advocates stress, inclusionary housing is not a panacea. Advocates in other large cities should consider inclusionary housing as part of the evolution of a comprehensive housing affordability policy that includes public subsidy, such as an affordable housing trust fund or housing bond. Just as the lack of low-cost housing is rooted in multiple causes, so is the solution rooted in multiple strategies.

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Endnotes

¹ The historical section and the San Diego case are adapted from an earlier paper. UCLA urban planning master's students Nancy Villaseñor, Dolly Valenzuela, and Helen Campbell contributed to the analysis.

² During the telephone interviews, stakeholders were asked to list the three most important factors that may have enabled the passage of an inclusionary ordinance in their cities. These criteria for success represent a compilation of these conversations. All of these factors were cited as important by at least one stakeholder in both cities.

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