



UCLA SCHOOL OF PUBLIC POLICY
AND SOCIAL RESEARCH
Department of Policy Studies

Improving Implementation of Inclusionary Housing Applied Policy Project

A Beginning-to-End
Best Practices Model
for
Implementing Inclusionary Housing

Prepared by:

Demetrius Chapin-Rienzo

Mónica Gómez

May 10, 2004

Advisor: J.R. DeShazo, Assistant Professor

Client: Jan Breidenbach, Executive Director

Southern California Association of Non-Profit Housing (SCANPH)

EXECUTIVE SUMMARY

Los Angeles is the only major urban region in California without an Inclusionary Housing Ordinance (IHO). There is however, a growing grassroots movement to adopt an IHO at the city level. Inclusionary housing is a response by localities to the severe shortage of affordable housing throughout the state. IHOs affect new single and multi-family housing developments. Under the ordinance, a residential developer is required to allocate a certain percentage (typically 10% to 20%) of the new units as affordable to provide them to very-low, low and/or moderate income households.

Despite the fact that California has more IHOs than any other state, the affordable housing stock continues to lag behind the ever-increasing housing demand. Since so many economic and political factors impact the development of inclusionary housing, the number of units produced grows at a slow rate. Consequently, it is extremely important that jurisdictions take special measures to monitor inclusionary housing and ensure compliance with both the intent and terms of an ordinance. Because inclusionary housing is a valuable component of any locality's affordable housing stock, the design and implementation of monitoring regulations are critical factors in the effectiveness of any inclusionary program. To this end, we address the following policy question:

What are the “best practices” currently being utilized by jurisdictions across the state to design, implement, monitor and enforce inclusionary housing programs?

We have come to conceptualize the process of developing inclusionary housing as a lifecycle approach with six fundamental phases plus an extra stage that could take place at any point in the process. The lifecycle concept presents the monitoring process as a timeline to assist a jurisdiction locate the different places where oversight is both challenging and advantageous.

As a beginning-to-end model, this approach provides jurisdictions the opportunity to proactively engage residential property developers at each stage of developing inclusionary housing. It also allows cities and counties the opportunity to oversee the production of affordable housing and subsequently monitor the compliance efforts of building owners.

Inclusionary Housing Lifecycle
1. Project Approval
2. Marketing Requirement
3. Selecting Tenants
4. Income Certification
5. Compliance with Affordability Requirements
6. Enforcement and Penalties
Extra: Sale or Transfer of Inclusionary Property

Our research process involved interviewing housing public employees, and conducting an extensive literature review of inclusionary primary and secondary sources. The recommendation targets were three key documents of any inclusionary housing program: the actual ordinance, the regulatory agreement and an administrative manual. This project aims to impact the design of

these documents. We surveyed the following localities: the cities of Carlsbad, Davis, Irvine, Sacramento, Santa Monica and West Hollywood, and the counties of Monterey and San Francisco.

This report seeks to identify the monitoring and enforcement practices that succeed at effectively implementing and maintaining inclusionary housing. Because an IHO in the City of Los Angeles would only apply to rental units, this research only considers those procedures that pertain to inclusionary rental housing.

Inclusionary Housing Lifecycle

Although this policy report was informed by the burgeoning inclusionary housing campaign in Los Angeles, we believe the following recommendations can inform and improve any jurisdiction's present or potential IHO.

1. Project Approval

Recommendations:

- ◆ The IHO should make executing the Regulatory Agreement a condition for the first project approval. The RA should be executed between a developer and locality to establish an understanding of expectations.
- ◆ Jurisdictions should capitalize on the Project Approval stage to set the tone for compliance and tracking. This stage allows the jurisdiction to establish an understanding with the developer about its inclusionary housing requirements and expectations.
- ◆ Sections of IHOs dedicated to project approval should be explicit in their requirements, but also allow the jurisdiction's housing officials to be flexible should the developer demonstrate genuine intent to provide inclusionary housing.

2. Marketing Requirement

Recommendations:

- ◆ Both the IHO and the regulatory agreement should dedicate a section for the marketing plan requirement, and link themselves to the administrative manual for specific guidance on policies and procedures.
- ◆ The jurisdiction should approve the marketing plan before it is implemented by the developer.
- ◆ The jurisdiction should maintain a comprehensive website with all of the information that a prospective tenant or developer should know about the inclusionary housing program (i.e. eligibility requirement, rent fees, referrals, listings, an information hotline, and waiting list).
- ◆ Jurisdictions should monitor the marketing requirement by having developers annually submit copies of flyers and/or brochures distributed among different local entities, such as community organizations and media sources.

3. Selecting Tenants

Recommendations:

- ◆ If jurisdictions allow developers to choose their own tenants, they must maintain the right of final approval. This condition should be part of the regulatory agreement.
-
-

-
-
- ◆ If the city or county requires owners to maintain a waiting list for each housing project, the list should be purged annually with the option to renew. The ordinance should establish this requirement and the regulatory agreement should state the conditions.
 - ◆ If resources available, the city or county should maintain a waiting list of ready-to-rent and pre-qualified tenants for developers to choose from. The regulatory agreement should specify the waiting lists and tenant selection requirements to the developer.

4. Income Certification

Recommendations:

- ◆ Jurisdictions should include in their regulatory agreement a detailed provision that allows for income increases of a 140% maximum.¹
- ◆ Jurisdictions should continue requiring developers to collect income data from tenants on an annual basis to certify incomes. This stipulation should be adopted in the ordinance.
- ◆ Jurisdictions should develop official forms for renters that summarize the income eligibility of qualified households.

5. Compliance with Affordability Requirements

Recommendations:

- ◆ Jurisdictions should conduct annual monitoring as established in both the ordinance and the regulatory agreement. As part of the appendix, the regulatory agreement should include official city or county forms for the monitoring process.
 - ? Annually localities should survey developers for updates on tenant inventories and affordability requirements.
 - ? Localities should encourage developers to contract professional property managers. Their expertise makes the monitoring process more efficient.
- ◆ Jurisdictions should provide training sessions for developers for the process of annual reports and tenant certifications.
- ◆ Jurisdictions should provide an administrative manual to developers, owners and property managers.

6. Enforcement and Penalties

Recommendations:

- ◆ The monitoring and enforcement section of any IHO should include some element of each of the following compliance provisions:
 - allow revocation of the Certificate of Occupancy for *both* inclusionary and market-rate units during occurrences of non-compliance
 - provide authorization for the jurisdiction to bring legal action necessary to enforce the IHO or regulatory agreement (including revocation and/or suspension of any permit or development approval)

¹ Thereafter, the tenant household would have the option to vacate the unit or pay fair market rent value. In the latter scenario, the developer would have to designate the next compatible available unit as an affordable apartment to remain in compliance.

-
-
- allow a jurisdiction to recover reasonable attorneys' fees for any action necessary to enforce the IHO or the regulatory agreement.
 - legally bind provisions of the IHO to all potential developers, owners and successors that propose a residential development governed by the ordinance
 - link all permits and approvals to compliance with the requirements of the IHO
 - state specifically that all inclusionary units (rented or owned) shall be in accordance with the IHO

Extra: Sale or Transfer of Inclusionary Property

Recommendations:

- ◆ In the regulatory agreement, jurisdictions should legally bind inclusionary housing to the title of the housing development, such that during a title search the inclusionary “tag” is attached to the deed.
- ◆ Make the sale or transfer of any inclusionary units subject to the approval of the jurisdiction without which a sale or transfer is null and void.

TABLE OF CONTENTS

Executive Summary.....	ii
Acknowledgments.....	vii
Introduction.....	1
Methodology.....	4
Critical Monitoring Documents for Inclusionary Housing.....	4
Beginning to End Best Practices Model for Monitoring Inclusionary Housing.....	5
Project Approval	5
Marketing Requirement.....	6
Selecting Tenants.....	9
Income Certification Methods	10
Compliance with Affordability Requirements.....	11
Enforcement and Penalties.....	12
Extra: Sale or Transfer of an “Inclusionary” Property.....	13
Administrative Costs of Monitoring.....	14
Conclusion.....	15
Glossary.....	16
Appendices.....	17
1. Survey Instrument.....	17
2. County of Sacramento, Inclusionary Housing Ordinance Section 17.190.110.....	19
3. City of Irvine, Regulatory Agreement Sample Section 3.0 and 3.1	20
4. General Information on Jurisdictions’ Inclusionary Housing Programs	21
5. County of Monterey, Chapter 18.40 Section 18.40.150	22
6. City of Irvine, “Income Computation and Certification Form.”.....	23
7. Estimated Monitoring Staff Time	25

ACKNOWLEDGMENTS

This Applied Policy Project would not have been possible without the invaluable guidance and input of our advisor, Professor J.R. DeShazo. J.R.'s constant support and seemingly endless feedback were critical to the completion of this project. Throughout the course of our research, we benefited from the knowledge and support of the tireless affordable housing advocates at the Southern California Association of Non-Profit Housing (SCANPH), our client. We give special thanks to SCANPH's Executive Director, Jan Breidenbach, for her patience, encouragement, and feedback throughout this project. We would also like to thank SCANPH for the use of their facilities.

We thank the Lewis Center for Regional Policy Studies for the more than generous grant in support of our APP. We give special thanks to Julia Heintz-Mackoff who was always available and provided invaluable procedural assistance in the early stages of our project. An extra special thanks to Doris Padilla, our undergraduate research assistant, for her tireless effort tracking down obscure legal documents and contacting housing officials from throughout the state.

We thank all of the public employees who took time out of their busy schedules to entertain our confused questions and substantial survey. We would like to thank housing officials from the following jurisdictions: the cities of Carlsbad, Davis, Irvine, Sacramento, Santa Monica and West Hollywood, and the counties of San Francisco and Monterey. Their cooperation and assistance during the phone calls and follow-up emails were critical to this report.

Last but not least, we give big thanks to our APP group for providing us with invaluable feedback, motivation and support. Each member of the group was an exemplary classmate.

Introduction

California's chronic and overwhelming housing affordability crisis has provoked the implementation of Inclusionary Housing Ordinances (IHOs) across the state. Inclusionary housing ordinances are designed to increase the availability of affordable housing by mandating that a certain percentage (typically 10% to 20%) of all new residential development be made available to very-low, low and/or moderate income residents. Individual jurisdictions determine the regulations pertaining to the affordability requirements and targeted income eligibility, however according to federal guidelines, an "affordable" unit cannot cost more than 30% of a household's income.

The state's affordable housing crisis is set against a backdrop of increasing property costs, declining federal funding, and Proposition 13's limit on property tax revenues. The National Low Income Housing Coalition found that in 2003, 61% of Los Angeles County renters cannot afford the fair market rent of \$1,021 for a two-bedroom unit.² An average household must earn \$15.52 an hour in order to afford a one-bedroom unit at fair market rent, and \$19.63 for a two-bedroom unit. The statistics are just as staggering for workers earning minimum wage. At \$6.75 an hour, a minimum wage worker would need to work 92 hours a week to afford a one-bedroom unit and 116 hours a week to afford a two-bedroom unit at fair market value. In 2002, the Housing Trust Fund Advisory Committee reported to Mayor James K. Hahn that "almost 75% of families with annual incomes of \$26,000 or less—120,000 families—spent more than half their incomes on rent."³

Currently, Los Angeles is experiencing a burgeoning campaign for an inclusionary housing ordinance at the city level. Our client, the Southern California Association of Non-Profit Housing (SCANPH) is an active leader in this campaign. For the past fifteen years, SCANPH has dedicated itself to the "development, preservation and management of permanently affordable housing for low-income people."⁴ As a long term advocate of affordable housing, SCANPH opines that an IHO will partially mitigate the city's housing need. While researching for the campaign, SCANPH was unable to find any significant information on the effectiveness of IHO compliance and oversight. After surveying over a hundred jurisdictions throughout California, a joint study by the California Coalition for Rural Housing and the Non-Profit Housing Association of Northern California found that monitoring and tracking were notably absent in the realm of inclusionary housing research.⁵ Throughout the course of our literature review, we too were unable to locate any significant studies on the monitoring and enforcement aspects of IHOs. Our Applied Policy Project (APP) strives to fill this void. Ideally, SCANPH will utilize our recommendations as it collaborates with the City Council and other interest

²"Out of Reach 2003: America's Housing Wage Climbs," released by the National Low Income Housing Coalition. Available at <http://www.nlihc.org/oor2003/>

³ Report of the Housing Trust Fund Advisory Committee Presented to Mayor James K. Hahn (November 14, 2002). Available at <http://www.lacity.org/mayor/htfac.pdf>

⁴ www.scanph.org

⁵ "Inclusionary Housing in California: 30 Years of Innovation," California Coalition for Rural Housing and Non-Profit Housing Association of Northern California (2003).

groups in the process of drafting the monitoring and enforcement regulations of a Los Angeles IHO.⁶

The primary objective of any inclusionary housing program is to motivate the development of the maximum possible number of affordable units. IHOs are drafted and adopted for the advancement of this policy goal. However, jurisdictions and housing departments do not traditionally focus on the future of these units once they are built. Housing departments typically have limited funds and resources. This makes sense for a couple of different reasons. From a political perspective, the most important step is getting the units built. They are visible in the community and make good press for elected officials and developers alike.⁷ Conversely, the oversight of inclusionary units does not provide the same political or monetary return. For most housing managers, taking the time and money to deal with compliance is a lower priority than securing more units. In addition, barring any extraordinary non-compliance housing scandal, local politicians are not typically concerned with monitoring issues. Finally, from the developers' perspective, monitoring the units is a cost of doing business but is rarely a priority. Profits are made from the construction and maintenance of market-rate units, not their affordable rate counterparts. It is our contention that well designed ordinance can motivate the development of inclusionary units and also address haphazard monitoring trends by both jurisdictions and property owners.

At cursory glance, most IHOs look the same. Typically, they are broken into a series of provisions outlining various principles and guidelines. Generally, they have the same structure yet the specifics of their sections can vary greatly. Some ordinances have vaguely worded provisions, while others provide very specific language. Differences are even more apparent when examining monitoring and enforcement requirements. The relative lack of uniformity and information should not depreciate the significance of effective monitoring provisions. These provisions help preserve and maintain a highly valuable stock of affordable housing. Jurisdictions with detailed oversight procedures have the most productive and cost-effective inclusionary programs.

As we address the following policy question, it is our primary goal to identify the range of monitoring practices being utilized by inclusionary housing programs.

What are the “best practices” currently being utilized by jurisdictions across the state to design, implement, monitor and enforce inclusionary housing programs?

Our research and surveying have demonstrated that effective monitoring is dependent on a proactive approach that identifies the points in the oversight process where jurisdictions have traditionally faced challenges. Three primary documents envelop the world of monitoring and enforcing inclusionary housing: the actual IHO, the regulatory agreement and the administrative manual. Jurisdictions utilize both the former and occasionally the latter during the implementation and oversight of an inclusionary residential development. Effective oversight heavily depends on how monitoring and enforcement are addressed in each of these documents.

⁶ As per our client's request, this policy analysis will only focus on IHO rental units, which are often monitored differently from affordable single-family homes.

⁷ The terms 'developers' and 'owners' will be used interchangeably throughout this report.

Through the course of our research and surveying, we have conceptualized inclusionary monitoring and enforcement in a novel fashion. We move away from the inherent instinct to think of monitoring as taking place only after an eligible tenant occupies an inclusionary unit. Although this approach is the most intuitive, we contend it does not yield the most efficient or effective oversight provisions. From the time a housing development is initially proposed to the time it is occupied, there are several stages at which a jurisdiction can partake in the monitoring process. We have conceptualized this process as the inclusionary housing monitoring “lifecycle.”

The lifecycle approach represents a sequence of events necessary for the development and preservation of inclusionary units. In order to progress from one stage to the next, developers must collaborate with jurisdictions to satisfy statutory requirements. We recommend localities consider this set of “stages” when designing and/or implementing monitoring provisions. Our Inclusionary Housing Monitoring Lifecycle is comprised of the following stages:

- 1. Project Approval**
 - 2. Marketing Requirement**
 - 3. Selecting Tenants**
 - 4. Income Certification Methods**
 - 5. Compliance with Affordability Requirements**
 - 6. Enforcement and Penalties**
- Extra: Sale or Transfer of an “Inclusionary” Property**

After identifying the benefits and challenges of monitoring at each stage, we outline how each of the primary documents comes into play at a given stage. We then attempt to provide examples from various jurisdictions utilizing a “best practice” when monitoring at a particular phase. Last, we make specific policy recommendations for each stage of the lifecycle model. Our ultimate goal is to provide practical strategies for implementing each of the stages into at least one of the three documents that regulate an inclusionary housing program.

Our best practices and recommendations are drawn from three primary sources. First, we reviewed contemporary inclusionary housing literature. Second, we interviewed practitioners from housing departments in each jurisdiction. Last, we analyzed the IHOs, regulatory agreements and the administrative manual. As mentioned earlier, there is a relative lack of information on monitoring and enforcement procedures of inclusionary housing. Nonetheless, we learned from interviewing civil servants that in the real world monitoring results from a combination of trial-and-error and relatively informal relationships between localities and developers.

We then identified important elements to consider when drafting the monitoring aspects of an IHO. Most importantly, our recommendations are grounded in the relationship between this trial-and-error process and the evolution of legal documents regulating inclusionary housing. Although our findings are directed to SCANPH and the Los Angeles inclusionary housing campaign, the recommendations can be applied to IHOs across the board. For those jurisdictions with IHOs already in place, our beginning-to-end model can be applied at any stage of the inclusionary monitoring process.

Methodology

Due to insufficient literature on monitoring inclusionary housing, our research relies on qualitative data collected from civil servants and analyses from primary and secondary sources. In consultation with our client, who seeks to learn about the range of monitoring approaches currently implemented throughout the state, we selected a pool of eight jurisdictions most comparable to the Los Angeles region. The localities are the cities of Carlsbad, Davis, Irvine, Sacramento, Santa Monica and West Hollywood, and the counties of Monterey and San Francisco. Our methodology included developing a survey instrument, conducting interviews, and gathering actual statutes and other legal documents critical to monitoring and enforcing inclusionary housing.

Working with SCANPH, we selected jurisdictions that might have some commonality with Los Angeles. First, we chose several of the largest, both geographically and populously, jurisdictions in the state. Studying these jurisdictions helped identify potential pitfalls in monitoring large numbers of units spread over great distances. Second, we examined those IHOs that have been around for the longest and the shortest periods of time. We found that the jurisdictions with the oldest IHOs have made both statutory and practical adjustments to monitoring provisions over time. Similarly, the most recently passed IHOs have incorporated monitoring practices that have worked well in the past. Third, we researched those jurisdictions close in proximity to Los Angeles to learn how they have dealt with IHO issues that may be unique to Southern California.

We surveyed public employees responsible for the oversight of inclusionary housing. Prior to interviewing, we studied the actual IHO from each jurisdiction. Reviewing the statute's language improved the quality of data gathered from the interviews and proved vital in the research process. We surveyed to learn about the first-hand experiences of public employees monitoring inclusionary units that otherwise would be difficult to find in a literature review.

The survey instrument consisted of five sections. (See **Appendix 1**) The first segment addressed the general information from jurisdictions. The second part examined the oversight procedures for tracking the inclusionary units. The third section inquired about leasing practices. The fourth part requested information about the policy enforcement procedures. Finally, the last section asked about any efforts currently in place to improve the ordinance.

Critical Monitoring Documents for Inclusionary Housing

Inclusionary housing laws are implemented and enforced through the use of three primary documents: the inclusionary housing ordinance (IHO), the regulatory agreement and the administrative manual. The foundation of any inclusionary housing program is established by the ordinance. The IHO provides the legal framework for residential development in any particular jurisdiction. Essentially, it establishes the restrictions that a property owner must adhere to while developing any new housing project. More specifically, it provides the statutory requirements and incentives for developing inclusionary housing.

The second instrumental document for inclusionary housing is the regulatory agreement.⁸ (See **Glossary**) The regulatory agreement is a contract entered into by a housing developer or property owner and a locality. The agreement outlines the specifics of a particular residential project in accordance with the IHO regulations. Also it incorporates the timeline of a particular project and dictates the terms by which a developer must meet various permitting and approval provisions. For a jurisdiction, the regulatory agreement is the contract binding a developer to the inclusionary property it intends to develop. The importance of an explicitly written regulatory agreement cannot be overstated.

The final document is the administrative manual. The manual contains information on the inclusionary program and it is designed for the use of housing administrators, developers and the community at large. The manual essentially explains the day-to-day procedures of program and compliance requirements to realize the inclusionary housing development. It is also used to resolve ambiguities within or between the ordinance and the regulatory agreement. Best practices in monitoring and compliance are the result of clear and specific language in all of these texts.

Beginning To End: Best Practices Model For Monitoring Inclusionary Housing

Throughout the lifecycle of an IHO there are a number of places at which a jurisdiction can partake in some form of oversight or compliance function. We examine six different “stages” and an extra phase in the design, implementation and enforcement of an inclusionary program where localities should consider some form of monitoring. On the whole, jurisdictions have adopted IHOs with various provisions pertaining to all of the stages.

In the following sections we will analyze each of the stages in an attempt to do five things. First, we hope to explain the challenges and benefits of monitoring at a particular stage. Second, identify which of the three monitoring documents should be utilized to address each of the particular stages. Third, we attempt to lay out a “best practice” strategy that addresses these challenges in oversight and compliance. Fourth, we provide examples and explanations of “best practices” from various jurisdictions throughout California. Finally, we provide recommendations based on best practices and the relationship between an IHO, a regulatory agreement and an administrative manual.

1. Project Approval

When a developer initially applies for approval of a project, the developer must submit a “Site Development Plan.” The proposal lays out the developer’s logistical plan regarding the proposed units, the timing and construction of the project, the financing and incentives requested. So long as it satisfies the IHO legal requirements, a jurisdiction will likely approve the proposal. The essential element of this stage is that developer is made aware of its legal obligations as established by the ordinance. With respect to monitoring, the project approval stage represents the first point at which a jurisdiction can begin tracking the inclusionary units of a residential development. Although there is relatively little monitoring to be done, project approval is the

⁸ The regulatory agreement is also referred to in some cases as the “Inclusionary Housing Agreement.”

stage at which a jurisdiction can set the tone for developer compliance. This stage provides the opportunity to establish a common understanding with the developer as to both the legal requirements and procedural expectations for the development of the inclusionary units. The implementation document for the project approval phase is the ordinance.

Best Practices:

A best practice strategy takes advantage of the project approval stage to lay out a general understanding between the developer and jurisdiction so far as expectations are concerned. Sacramento’s IHO specifically mandates that a project proposal cannot be satisfied without the owner or developer and the director of the Sacramento Housing and Redevelopment Agency first executing a housing agreement under the advice of the Planning Director.⁹ (See **Appendix 2**) This is an example of an agreement procedure that ensures multiple levels of oversight. By mandating that the agreement be approved by both the housing agency and the planning director, a jurisdiction can further protect its inclusionary housing.

Monterey County revamped its IHO last year in an attempt to reduce non-compliance and inefficient monitoring.¹⁰ The new IHO clearly outlines the conditions requisite to gaining project approval. Most importantly, any project’s plans and proposals must meet all of the IHO requirements when submitted for approval. The section clearly establishes the county’s expectations of any new residential construction. The ordinance also provides language permitting amendments to housing agreements should the county deem it appropriate to negotiate with a developer. The new IHO outlines specific conditions of approval and makes explicit a developer’s right to negotiate should “unusual circumstances” arise. In addition, a developer has the right to appeal unfavorable decisions made by the appropriate authority. The “Development Project Approval” of the Monterey County IHO is a great example of the message that a jurisdiction wants to send potential developers: “Be ingenuous about providing inclusionary housing and we can be flexible.”

Recommendations:

- ◆ The IHO should make executing the regulatory agreement a condition for the first project approval. The regulatory agreement should be executed between a developer and locality to establish an understanding of expectations.
- ◆ Jurisdictions should capitalize on the Project Approval stage to set the tone for compliance and tracking. This stage allows the jurisdiction to establish an understanding with the developer about its inclusionary housing requirements and expectations.
- ◆ Sections of IHOs dedicated to project approval should be explicit in their requirements, but also allow the jurisdiction’s housing officials to be flexible should the developer demonstrate genuine intent to provide inclusionary housing.

⁹ City of Sacramento. Inclusionary Housing Ordinance. City Code, Section 17.190.110 (C)(1)

¹⁰ County of Monterey. Inclusionary Housing Ordinance. County Code, Section 18.40.100 (A)-(E).

2. Marketing Requirement

Methods for marketing the affordable housing units are crucial in outreaching eligible tenants. To this end, jurisdictions often require developers to submit a marketing plan. The marketing document establishes the process by which property owners or their managers must fill vacant affordable housing units. This strategy also works as a tool to engage owners to comply with the IHO regulations and have them reach out to very-low, low and/or moderate income households. Conversely, the lack of marketing procedures could result in renting practices that are biased and/or violate federal fair housing laws, or in the loss of inclusionary housing units altogether.

Though overseeing renting or leasing practices is often beyond the capacity and resources of public agencies in charge of monitoring, jurisdictions need to ensure landlords are renting the affordable units to targeted populations. The City of Sacramento once found a case where an apartment complex falling under inclusionary zoning had all of its affordable housing units rented out to immigrants from the exact same town in Russia.¹¹ In fact, local neighborhood was home to a diverse community of low-income residents and immigrants. Jurisdictions thus require developers to inform potential tenants about available units and provide an equal opportunity to solicit a vacancy.

The IHO and the regulatory agreement are best fit to address the marketing requirement, especially when linked to the administrative manual for reinforcement. While the ordinance establishes the requirements and refers to the manual, the regulatory agreement strengthens the requisite by laying out specific marketing procedures. Requiring a marketing plan does not guarantee compliance and jurisdictions should continue to monitor these arrangements.

Best Practices:

The implementation of a marketing strategy works best as a mutual understanding between the jurisdiction and the developer. While a developer reaches out to potential tenants through flyers and newspaper ads or maintains its own waiting list, jurisdictions can inform the public with brochures and online information about affordable housing. Among our pool of localities, marketing strategies include a waiting list, a lottery and a jurisdiction-sponsored website that informs the public about its inclusionary housing program. Website information varies by site but it often includes descriptions on the leasing process, eligibility requirements for affordable housing units, and general information on affordable housing. Most importantly, webpages are vital sources of information on the inclusionary housing program for both tenants and housing developers. Every locality we surveyed had inclusionary housing information online. (See **Appendix 4**)

The City of Irvine uses only the regulatory agreement for its marketing requirement. Developers are required to generate an “Affirmative Marketing Plan” to reach out to potential tenants. The plan must include bilingual flyers and ads distributed amongst different organizations, newspapers and other local publications.¹² Not only must property owners or their managers submit, on an annual basis, copies of documents of their marketing efforts, but also must

¹¹ Interview with City of Sacramento, Sacramento Housing Redevelopment Agency (SHRA) (February 3, 2004).

¹² Interview with City of Irvine, Community Development Department (February 10, 2004)

maintain a “viable income eligible wait list and all of the costs are borne by the developers.”¹³ The City of Irvine does not maintain waiting lists, but it collaborates in the marketing efforts by distributing brochures and providing both a phone line and a website dedicated to affordable housing information.¹⁴

In the case of the City of Sacramento, the Sacramento Housing Redevelopment Agency (SHRA) requires developers to maintain a waiting list of prospective tenants for each housing development.¹⁵ Once a year, owners are required to purge their waiting list for the purpose of allowing new applicants to enroll. In the meantime, the city distributes brochures and updates its website with the information on “How to Apply for Multi-family Rental Housing.”¹⁶ In the end, both entities take a share of the responsibility in reaching out to the targeted populations, however, the greater costs are borne by the developer.

The County of Monterey implements the best marketing practices of any inclusionary housing program. Both the ordinance and the regulatory agreement tie themselves to the administrative manual as an extra layer of legal protection. First, the ordinance refers to the administrative manual which establishes the policies and procedures for marketing the inclusionary units.¹⁷ Second, the regulatory agreement specifically requires developers to submit a “marketing and management plan” to the county for approval prior to the marketing of units.¹⁸ Most importantly, the regulatory agreement specifically outlines a list of components that should define the plan, such as the “marketing and tenant selection plan, description of property management team, copies of rental agreements/leases, procedures for complying with fair housing laws, selection procedures for tenants, initial rents and utility allowances, and agreement to maintain adequate property insurance.”¹⁹ The important lesson learned from Monterey is that by linking all three documents, the county takes greater steps at preventing non-compliance or loopholes that could undermine its inclusionary housing program.

Recommendations:

- ◆ Both the IHO and the regulatory agreement should dedicate a section for the marketing plan requirement, and link themselves to the administrative manual for specific guidance on policies and procedures.
- ◆ The jurisdiction should approve the marketing plan before it is implemented by the developer.
- ◆ The jurisdiction should maintain a comprehensive website with all of the information that a prospective tenant or developer should know about the inclusionary housing program (i.e. eligibility requirement, rent fees, referrals, listings, an information hotline, and waiting list).

¹³ Ibid.

¹⁴ <http://www.cityofirvine.org/depts/cd/planningactivities/affordablehse/default.asp>

¹⁵ See Interview with City of Sacramento.

¹⁶ <http://www.shra.org/Content/Housing/AffordableHousingSite/HowToApply.htm#WaitingList>

¹⁷ County of Monterey. Inclusionary Housing Ordinance No. 04185. SECTION 10: Section 18.40.110 (G)

¹⁸ Ibid.

¹⁹ Ibid, Section 9. County Approval of Documents (a).

-
-
- ◆ Jurisdictions should monitoring the marketing requirement by having developers annually submit copies of flyers and/or brochures distributed among different local entities, such as community organizations and media sources.

3. Selecting Tenants

Monitoring inclusionary housing includes establishing a process of selecting tenants for the affordable units. Developing a system between a jurisdiction and developers fosters a common understanding as to how tenants should be selected. Tenants are usually selected from waiting lists maintained by jurisdictions or developers, as in Sacramento.²⁰ In other cases, like in the City of Santa Monica, both the city and local nonprofit housing developers maintain lists of potential tenants which can be draw on by developers to fill vacancies.²¹ Ultimately, the sole purpose of a tenant selection process is to guarantee that inclusionary housing is occupied by eligible tenants.

Without detailed procedures, it would be the developer's discretion to choose eligible tenants. Given the option of inclusionary versus market rate renters, landlords are primarily concerned in receiving a monthly rent check regardless of the source. The challenge to having an effective selection process is to monitor the units such that landlords have less opportunity to abuse the system. The best place to document the process of selecting tenants has been in the regulatory agreement, which details the options that a developer can opt for in the selection of tenants.

Best Practices:

The most common method for selecting tenants involves a locality maintaining its own waiting list of applicants, from which developers simply grab a handful of prospective tenants and make their final selection. The City of Carlsbad maintains an "Interested List" of potential tenants available for developers needing to fill any vacancies.²² West Hollywood also maintains its own waiting list and this is the only option for tenant selection.²³ In its regulatory agreement, West Hollywood states that the owner has the option to pick tenants from the city's list, but in the case where a rental application is rejected, developers are required to provide a written notice to the applicants and that specifies the reasons for declining the application.²⁴

Given that this method of keeping and updating waiting lists often burdens jurisdictions with extra costs, some cities and counties do not involve themselves in the tenant selection process. However, regardless of whether the developer maintains a waiting list, "best practice" jurisdictions should take an active role in selecting of tenants. For example, in San Francisco the selection is left to the landlord's discretion, but in the end, the county makes the final approval.²⁵

²⁰ Interview with City of Sacramento, Sacramento Housing Redevelopment Agency (SHRA) (February 3, 2004).

²¹ Interview with City of Santa Monica, Housing And Redevelopment Division (January 30, 2004).

²² Interview with City of Carlsbad, Housing and Redevelopment Department (February 12, 2004).

²³ Interview with City of West Hollywood, Rents Stabilization and Housing Department (February 24, 2004).

²⁴ City of West Hollywood, Sample Agreement Imposing Restrictions on Real Property. Section (4) (C).

²⁵ Interview with County of San Francisco, Mayor's Office of Housing and Development (February 20, 2004).

Recommendations:

- ◆ If jurisdictions allow developers to choose their own tenants, they must maintain the right of final approval. This condition should be part of the regulatory agreement.
- ◆ If the city or county requires owners to maintain a waiting list for each housing project, the list should be annually purged with the option to renew. The ordinance should establish this requirement and the regulatory agreement should state the conditions.
- ◆ If resources available, the city or county should maintain a waiting list of ready-to-rent and pre-qualified tenants for developers to choose from. The regulatory agreement should specify the waiting lists and tenant selection requirements to the developer.

4. Income Certification Methods

Another crucial piece in the monitoring aspect of inclusionary housing includes the process of certifying the incomes of tenants in affordable housing units. Incomes are verified initially during the leasing of a unit and usually on an annual basis thereafter. The certification confirms that the tenant falls within the targeted income range. Subsequently, on a quarterly, annual or biannual basis, incomes are certified to assure two things: first that the tenant occupying the unit remains qualified, and second that the unit is indeed occupied. The essential element of this stage is the type of documentation used to verify incomes.²⁶

The income certification requirement should be established by the ordinance; simultaneously, the regulatory agreement should describe the procedures and documentation requirements with greater detail. Verifying that tenants occupying the inclusionary units meet the income targets allocated for the affordable housing is in the end, a task best carried out by jurisdictions on an annual basis with the cooperation of developers.

Best Practices:

As required by localities, developers collect the information and submit reports on an annual basis. Except for the City of Sacramento, which specifically states in its ordinance that “The Owner of rental Inclusionary Unit shall be responsible for certifying the income of tenant to the SHRA at the time of initial rental and annually thereafter,” most jurisdictions requests developers to gather the information and submit for verification of income eligibility.²⁷ In rare instances, as in the City of Davis, incomes are certified by a third party, like a non-profit organization.²⁸

Increasing incomes are rarely problematic; most jurisdictions have developed flexible rules when confronted with situations of income increases among inclusionary housing tenants. For instance, the City of Irvine mandates that housing developments still meet their compliance

²⁶ The personal documents involved include recent records from employment paychecks, federal income tax returns, Social Security payments, Supplemental Security income, unemployment benefits, public assistance income, pension and/or military benefits.

²⁷ City of Sacramento, Inclusionary Housing Ordinance. Chapter 17190 To Title 17 (Zoning Code) of the City Code Relating to Mixed Income Housing. Section 17.190.110 (D).

²⁸ Interview with City of Davis, Housing Department (February 3, 2004).

requirements even when tenants earn 140% of their original income limit.²⁹ The City of West Hollywood is also allows incomes to increase.³⁰

Recommendations:

- ◆ Jurisdictions should continue requiring developers to collect income data from tenants on an annual basis to certify incomes. This stipulation should be adopted in the ordinance.
- ◆ Jurisdictions should develop official forms for renters that summarize the income eligibility of qualified households.
- ◆ Jurisdictions should include in their regulatory agreement a detailed provision that allows for income increases of a 140% maximum.³¹

5. Compliance with Affordability Requirements

Once the affordable housing units are occupied, jurisdictions set up various monitoring processes to verify income, rents and affordability requirements. Without regular monitoring procedures jurisdictions would be vulnerable to the loss of desperately needed affordable housing. Monitoring is carried out through annual reports and/or site inspections. The monitoring provisions are usually found in the ordinance. The statutory language is often vague and general, but the detailed information is found in the regulatory agreement. The best examples are those ordinances that establish the requirements for a monitoring process and simultaneously link themselves to specific procedures in the administrative manual. (See **Appendix 5**)

Best Practices:

Jurisdictions often prefer the work with professional property managers with greater expertise in the basic logistics collecting income records and dealing with tenants. Jurisdictions have found that the monitoring work is more effective when working with professional property managers instead of developers or their on-site managers.

For monitoring that requires documentation procedures, several jurisdictions have developed their own official forms that are distributed among tenants and developers. These documents are used to certify income and affordability requirements. Both the City of Irvine and West Hollywood have developed their own official documents. The City of Irvine requires tenants to fill out the “Income Computation and Certification Form,” which requests household information, gross household income, monthly expenses (rent and utilities) and the primary tenant’s signature to certify the validity of the form.³² (See **Appendix 6**) Irvine’s monitoring process includes site inspections.

Similarly, the City of West Hollywood requires the tenants to complete the “Recertification of Income and Tenancy Form (2003-2004),” while developers or their property managers are

²⁹ Interview with City of Irvine, Community Development Department (February 10, 2004).

³⁰ Interview with City of West Hollywood, Rents Stabilization and Housing Department (February 24, 2004).

³¹ Thereafter, the tenant household would have the option to vacate the unit or pay fair market rent value. In the latter scenario, the developer would have to designate the next compatible available unit as an affordable apartment to remain in compliance.

³² City of Irvine. “Income Computation and Certification Form.”

required fill out the “Inclusionary Housing Renewal Form (Tenant/Unit Inventory).”³³ West Hollywood simply asks tenants their amounts and sources of income along with a list of members living in the household. To the developers, West Hollywood requests an inventory of their tenants, affordability requirements and vacancy rates. To save on costs and resources the County of Monterey monitors on a biannual basis; and requires developers to complete the “Monitoring Review Form” for each housing project.³⁴ Nonetheless, the County maintains a database endowed with information of all of the affordable housing tenants, their rents, and their units.³⁵ This database is updated at every monitoring cycle. Overall, the most common and best practice monitoring procedure entails an annual report that generates an inventory of tenants occupying the affordable housing units and their income information to verify their eligibility. Yearly audits have proved valuable to the maintenance and preservation of inclusionary housing.

Recommendations:

- ◆ Jurisdictions should conduct annual monitoring as established in both the ordinance and the regulatory agreement. As part of the appendix, the regulatory agreement should include official city or county forms for the monitoring process.
 - ? Annually localities should survey developers for updates on tenant inventories and affordability requirements.
 - ? Localities should encourage developers to contract professional property managers. Their expertise makes the monitoring process more efficient.
- ◆ Jurisdictions should provide training sessions for developers for the process of annual reports and tenant certifications.
- ◆ Jurisdictions should provide an administrative manual to developers, owners or property managers.

6. Enforcement and Penalties

Some of the most important components of any inclusionary housing program are the enforcement and non-compliance stipulations. A jurisdiction’s ability to enforce the regulatory agreement must be outlined in the IHO, included in the regulatory agreement and explained in the administrative manual. The crux of any enforcement system is ensuring that monitoring and compliance are successful outcomes. However, localities run the risk of stunting development with harsh penalties. The range of potential remedies can be found in the agreement, the ordinance, the manual or any combination of the three.

Best Practice:

There are a number of different ways enforcement is a variable in the monitoring equation. The Certificate of Occupancy is a jurisdiction’s trump card. It is the necessary authorization for a developer to begin renting out all units in any housing development. The threat of its revocation is the “teeth” of most jurisdictions enforcement policies. Control over the Certificate of Occupancy is an essential component to ensuring developers meet both the construction and monitoring aspects of the development agreements.

³³ City of West Hollywood, “Recertification of Income and Tenancy Form (2003-2004)” And “Inclusionary Housing Renewal Form (Tenant/Unit Inventory).”

³⁴ County of Monterey, Administrative Manual. Section V. Monitoring and Compliance Procedures (1.A).

³⁵ Interview with the County of Monterey, Housing and Redevelopment Department (February 9, 2004).

San Francisco's IHO provides a good example of how to use a Certificate of Occupancy to ensure compliance with inclusionary development. In the simplest terms, the building inspector department cannot issue a Certificate of Occupancy until all the ordinances statutory requirements are met pursuant to either on-site or off-site construction.³⁶ In addition if San Francisco's planning commission determines that a project is in violation of the ordinance, then the county can revoke the Certificate of Occupancy or pursue other enforcement remedies.

According to the City of Davis' housing coordinator, the penalties and consequences of non-compliance depend on the kind of funding used for the project.³⁷ A privately funded project not fulfilling its affordability requirements could be fined according to the code enforcement in the regulatory agreement. Projects using federal, state, or local funding might be required to pay back those subsidies that were improperly used. Were this to occur, the violation would be on the record of the developer and could preclude it from future funding. Davis' enforcement provisions are indicative of the jurisdiction's desire to promote affordable housing while simultaneously reducing the abuse of monetary and procedural incentives offered to developers.

Recommendations:

- ◆ The monitoring and enforcement section of any IHO should include some element of each of the following compliance provisions:
 - legally bind provisions of the IHO to all potential developers, owners and successors that propose a residential development governed by the ordinance
 - link all permits and approvals to compliance with the requirements of the IHO
 - state specifically that all inclusionary units (rented or owned) shall be in accordance with the IHO
 - allow revocation of the Certificate of Occupancy for *both* inclusionary and market-rate units during occurrences of non-compliance
 - provide authorization for the jurisdiction to bring any legal action necessary to enforce the IHO or regulatory agreement (including revocation and/or suspension of any permit or development approval)
 - allow recovery of reasonable attorneys' fees for any action necessary to enforce the IHO or the regulatory agreement.

Extra: Sale or Transfer of "Inclusionary" Property

Inclusionary housing developments become part of the land upon which they are built. Once a property is developed with inclusionary units, the affordable housing must be preserved for the duration of the affordability period as established by the IHO.³⁸ However, some jurisdictions have "lost" inclusionary properties as a result of land sold or transferred without the inclusionary tag on the title. After a jurisdiction works so incredibly long and hard to generate inclusionary units, housing losses are an extremely unfortunate (yet preventable) occurrence. The best place to locate language pertaining to the sale or transfer of property is in the regulatory agreement.

³⁶ County of San Francisco, Inclusionary Housing Ordinance, Section 315.8.

³⁷ Interview with City of Davis, Housing Department (February 3, 2004).

³⁸ City of Davis. Inclusionary Housing Ordinance. Section 18.05.060 (a)(2)(E).

Best Practices:

A regulatory agreement should include specific provisions pertaining to the sale or transfer of an inclusionary site. Such a provision should dictate the terms by which a property owner's interest is legally transferable. In the regulatory agreement, the jurisdiction must require that the property be zoned inclusionary. Accordingly, during any future title searches undertaken at possible ownership transfers, the residential development will emerge as an inclusionary property.³⁹

The City of Irvine utilizes a regulatory agreement that clearly dictates the legal steps necessary to transfer any significant portion of property that has been delegated inclusionary housing. The city regulates the sale or transfer of any inclusionary housing property that exceeds 25% of the owner's interest in the property. The sale or transfer of more than 25% of the property is rendered null and void unless the city first provides "prior written approval."⁴⁰ (See **Appendix 3**) In addition, the Irvine IHO lays out specific factors that must be considered by the city before issuing permission to sell or transfer the property:

- (i) Whether the completion of the rehabilitation of the Site is jeopardized;
- (ii) The financial credit, strength, and capability of the proposed transferee to perform Declarant's obligations hereunder; and
- (iii) The proposed transferee's experience and expertise in the planning, financing, development, ownership, and operation of similar projects.⁴¹

Therefore, absent the city's specific approval, the owner is not relieved of its duty to complete "construction of the Facility or any other obligations under [the] Regulatory Agreement."⁴²

Recommendations:

- ◆ In the regulatory agreement, jurisdictions should legally bind inclusionary housing to the title of the housing development, such that during a title search the inclusionary "tag" is attached to the deed.
- ◆ Make the sale or transfer of any inclusionary units subject to the approval of the jurisdiction without which a sale or transfer is null and void.

Administrative Costs of Monitoring

Throughout the course of surveying numerous housing administrators across California, there was little established consensus as to the cost of monitoring inclusionary housing. There is typically one public administrator that oversees a jurisdiction's inclusionary program. That person is usually in charge of maintaining relationships with developers, coordinating compliance procedures and ensuring that statutory provisions are met. In addition, we realized that jurisdictions make many different funding arrangements in their attempt to secure the most

³⁹ City of West Hollywood. Regulatory Agreement Sample. Section (C)(20) ("Burden to Run With Property. The covenants and conditions herein shall run with and burden the Property until terminated in accordance with the provisions hereof. Owner shall expressly make the conditions and covenants in this Agreement a part of any deed or other instrument on the Property.")

⁴⁰ City of Irvine. Regulatory Agreement Sample. Section 3.0 and 3.1

⁴¹ Ibid.

⁴² Ibid.

cost-effective approach to housing oversight. Often times a city or county will fund its monitoring position by using numerous different sources of public subsidies. For example, the City of Santa Monica has five sources of funding that support their affordable housing and the cost of monitoring such as the General Fund, Community Development Block Grant, HOME funds, California Tax-Credits and the Housing Trust Fund.

Some jurisdictions use the Housing Authority to verify the incomes of the tenants renting inclusionary units. This is a cost saving mechanism because Housing Authorities are more familiar with using income tax returns and other official documents to confirm income-related questions given their expertise in regulating Section 8 Program. Some jurisdictions hire graduate students during the times of year when income verification is taking place. For example, Irvine hires a grad student for approximately three months part-time during one wave of compliance and then will rehire that student three months later for another three months during the next verification wave. One housing administrator estimates that monitoring costs his jurisdiction approximately \$55,000 each year. (See **Appendix 7**)

Jurisdictions will also benefit from the periodic evaluation of the effectiveness of their IHOs and monitoring practices. For example under San Francisco's IHO, "[a] study is authorized to be undertaken under the direction of the Mayor's office of Housing immediately to be updated every five years thereafter to determine the relationship in nature and amount between the production of market-rate residential housing and the availability and demand for affordable housing in San Francisco."⁴³ Such a provision allows a jurisdiction to systematically evaluate its inclusionary program to ensure that the program is as cost-effective as possible. During the course of having systematic evaluations, jurisdictions can incorporate policy reports like this one (or others that are similar), to adopt the best practices being utilized by jurisdictions throughout the state attempting to increase the affordable housing stock.

Conclusion

With the strategic use of an IHO, a regulatory agreement and an administrative manual, the City of Los Angeles can have the opportunity to proactively monitor at each stage of the inclusionary housing lifecycle while also encouraging affordable *and* market rate development. Once an IHO is adopted, the challenge for Los Angeles will be realizing the production of enough new affordable units to partially relieve the housing crisis. In addition to the challenge of generating inclusionary housing, Los Angeles will have limited funding and resources to monitor development and enforce statutory compliance.

As our report indicates however, there are numerous stages where monitoring can and should occur. If Los Angeles chooses to undertake oversight at these particular stages the actual cost of monitoring will be more in the short-term but will save funds for the city in the long-term. Housing officials from across the state agree that it is more cost-effective to monitor early in the development process by pro-actively encouraging developers compliance than it is to react to inclusionary housing fraud and abuse. Although oversight will never be perfect, we hope that

⁴³ County of San Francisco, Inclusionary Housing Ordinance, Section 315.8 (e).

the lifecycle approach will provide Los Angeles and any other interested jurisdictions, the best opportunity to gain the most from inclusionary housing through this implementation model.

GLOSSARY⁴⁴

Affordable Rent: monthly rent that does not exceed one-twelfth of 30 percent of the maximum annual income for a household of the applicable income level (Moderate-, Low- or Very Low-Income).

Developer or Property/Building Owner: any applicant person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks City approvals for all or part of a Residential or Commercial Development.

Inclusionary Zoning or Inclusionary Housing Ordinance (IHO): land use zoning law requiring new residential projects to include a certain percentage of its units as affordable to very low, low and/or moderate income households.

Inclusionary Housing [or Affordable Housing] Plan: A plan for a residential or Commercial Development submitted by a Developer.

Inclusionary Unit: a dwelling unit that must be offered at Affordable Rent or available at an affordable housing cost to Moderate-, Low- and Very Low-Income Households.

Regulatory Agreement or Inclusionary Housing Agreement: a written agreement between Developer and the City [or County] governing how the Developer shall comply with the IHO.

Residential [or Housing] Development: the construction of any residential dwelling units where the tentative map, parcel map or, for project not processing a map, the building permit was received after the effective date of the IHO.

⁴⁴ The California Inclusionary Housing Reader. Editor, Bill Higgins. Institute for Local Self Government.

-
-
22. Do you find that one type of property management works better than the rest? If so, do you target one kind instead of another?
 23. Do you trust one entity more than another?
 24. What happens when incomes increase?
 25. What happens overtime after lease is up? Have you noticed any trends?

IV. ENFORCEMENT

26. What are your monitoring procedures? For instance, how do you verify the occupancy of rental homes by income eligible households over the long-term?
27. How often are units monitored?
28. Who or what is the enforcement authority?
29. In a typical year how often do you find non-complying tenants or property owners?
30. Are there penalties or consequences for non-compliance?
31. In your opinion, are these penalties effective?
32. Are there any informal arrangements made upon findings of non-compliance?

V. MAKING IMPROVEMENTS

33. What aspects of your IHO make monitoring/oversight most effective?
34. Least effective?
35. What would you change specifically in the ordinance, if anything, to make monitoring easier? More realistic?
36. To ensure long term compliance?
37. What ideas would make IHO oversight and monitoring more effective on the whole?
38. Would you say you have a “successful” Inclusionary Housing program?

APPENDIX 2: County of Sacramento, Inclusionary Housing Ordinance Section 17.190.110

Section 17.190.110 Administration of the Inclusionary Housing Component

* * *

C. Inclusionary Housing Agreement

1. Requirement. No Development Agreement or Project-specific Approval may be issued by the City without an executed Inclusionary Housing Agreement executed by the Owner, the Developer (if not Owner), and the Director of the SHRA acting with the advice of the Planning Director. Recordation of the Agreement shall be a condition of approval of any Development Agreement, Disposition and Development Agreement or Project-level Approval.

APPENDIX 3: City of Irvine, Regulatory Agreement Sample Section 3.0 and 3.1

3.0 SALE OR TRANSFER OF THE SITE.

The Declarant covenants that Declarant shall not transfer Declarant's leasehold interest in the Site or any portion thereof, except as provided in this section.

3.1 Transfer Defined. As used in this Section, the term "transfer" shall include any assignment conveyance of Declarant's leasehold interest in the Site or the improvements thereon. A transfer shall also include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) (in the aggregate) of the present ownership and/or control of any person or entity constituting Declarant or its general partners, taking all transfers into account on a cumulative basis, except transfer, of such ownership or control interest among their respective shareholders. In the event any entity constituting Declarant, its successor or the constituent partners of Declarant or any successor of Declarant, is a corporation or trust, such a transfer shall refer to the transfer of the issued and outstanding capital stock of such corporation or beneficial interests of such trust; in the event that any entity constituting Declarant, its successors or the constituent partners of Declarant or any successor of Declarant is limited or general partnership, such transfer shall refer to the transfer of more than twenty-five percent (25%) of such limited and general partnership interest; in the event that any entity constituting Declarant, its successors or the constituent partners of Declarant or any successor of Declarant is a joint venture, such transfer shall refer to the transfer of more than twenty-five percent (25%) of the ownership and/or control of any such venture partner, taking all transfers into account on a cumulative basis. Notwithstanding the foregoing or any other provision set forth herein to the contrary, the general partner of the Declarant may transfer its general partnership interest to a California nonprofit public benefit corporation in which a majority of the Board of Directors are members of the Board of Directors of Jamboree Housing Corporation, a California nonprofit public benefit corporation ("JHC").

APPENDIX 4: General Information on Jurisdictions' Inclusionary Housing Programs

Jurisdiction	Year Established	Affordability Period	Affordability Requirements	Income Targets	Website
City of Carlsbad	1993	55 Years	At least 15%	VLI & LI	Yes ⁴⁵
City of Davis	1987	In Perpetuity	25%-35%	VLI, LI & MI	Yes ⁴⁶
City of Irvine	1984/89	30 to 55 Years	15% (10% VLI & LI; 5% MI)	VLI, LI & MI	Yes ⁴⁷
City of Sacramento	2000	30 Years (at least, vary by case)	15% (10% VLI; 5% LI)	VLI & LI	Yes ⁴⁸
City of San Francisco	1992	10-50 Years	10%-20%	LI & MI	Yes ⁴⁹
City of Santa Monica	1990/92	55 Years	30% (50% LI)	LI & MI	Yes ⁵⁰
City of West Hollywood	1986	In Perpetuity	20%	LI & MI	Yes ⁵¹
County of Monterey	1979/85	55 Years or In Perpetuity (vary by case)	15%-20% (6% VLI; 6% LI; 8% MI)	VLI, LI & MI	Yes ⁵²

VLI: Very-Low Income

LI: Low Income

MI: Moderate Income

◆ These categories represent a certain percentage of the Area's Median Income (AMI), which vary by jurisdictions. The following is a possible scenario:

- Very-Low income represents 30% or below of AMI
- Low Income represents 31% - 50% of AMI.
- Moderate Income represents 51% to 80% of AMI.

⁴⁵ <http://www.ci.carlsbad.ca.us/cserv/3afford1.html>

⁴⁶ <http://www.city.davis.ca.us/pb/affordable/index.cfm>

⁴⁷ <http://www.cityofirvine.org/depts/cd/planningactivities/affordablehse/default.asp>

⁴⁸ <http://www.shra.org/Content/Housing/AffordableHousingSite/HowToApply.htm>

⁴⁹ <http://www.sfmoh.org/login.htm>

⁵⁰ <http://santa-monica.org/housing/affordhousing.htm>

⁵¹ <http://www.weho.org/index.cfm?fuseaction=detail&navid=115&cid=720>

⁵² <http://www.co.monterey.ca.us/housing/housing/InclusionaryHousingProgram.asp>

APPENDIX 5: County of Monterey, Chapter 18.40 Section 18.40.150

MONITORING

A. Owners and occupants of property subject to restrictions pursuant to this Chapter shall permit County employees and other designated by the County to inspect the property upon two business days' advance written notice. Owners of property subject to restrictions pursuant to this Chapter shall retain all records related to compliance with the obligations under this Chapter for a period not less than five years, and make sure records upon five business days' advance written notice. *The County shall be further entitled to monitor compliance with this Chapter as provided in the administrative manual and documents executed with respect to any residential development and/or inclusionary unit.*

APPENDIX 6: City of Irvine, “Income Computation and Certification Form.”

PART I. PROPERTY FINANCED WITH GOVERNMENT ASSISTANCE

Property Address: _____

PART II. TENANT HOUSEHOLD INFORMATION

		Date of Birth	Soc. Sec. #	Relationship

TOTAL NUMBER OF PERSONS IN HOUSEHOLD: _____ (Please list information on other household members below)

Mailing Address: _____ Telephone Numbers: Work (____) _____
 _____ Home (____) _____

PART III. GROSS HOUSEHOLD INCOME Complete the following, attach copies of required verification as specified below. Attach a note explaining any significant changes in household income between the previous year and the current year. INFORMATION IS REQUIRED FOR ALL MEMBERS OF THE HOUSEHOLD AGE 18 OR OLDER REGARDLESS OF WHETHER THEY CONTRIBUTE TO THE COSTS OF THE HOUSEHOLD. If you are not required to file a tax return, please indicate this in Part V by your signature.

INCOME SOURCES	ANN INCOME for owner	ANN INCOME others in hshld	VERIFICATIONS (needed for file)
A. Employment earnings			Last tax return & last 3 pay stubs, employer verification
B. Self-employment earnings			Last 2 tax returns & current financial stmt
C. Social Security (OASDI)			Annual award letter
D. Supplemental Security Income (SSI)			Annual award letter
E. Public assistance (AFDC, general assistance, unemployment, etc.)			Current benefit statement
F. Pension (s)			Annual award letter, year end stmt, W-2
G. Interest income			Last 2 statements for all accounts
H. Investment income (stocks, bonds, real estate, etc.)			Last 2 statements for all accounts
I. Room rental			Rental agreement, copies of checks, etc.

INCOME SOURCES	ANN INCOME for owner	ANN INCOME others in hshld	VERIFICATIONS (needed for file)
J. Other income (list type/source)			
K. TOTAL INCOME (sum of A thru J)			/ 12 months = _____ mo. income

PART IV. PROPERTY STATUS

Will this property be your primary residence? _____

Will someone other than the individuals listed above be occupying this property? _____

If yes - Name of occupants: _____

Telephone Number: _____ Mailing Address: _____

My/our housing expenses are as follows:

1. Monthly tenant rent _____

2. Average monthly utilities _____

PART V. TENANT CERTIFICATION

I/We understand that after the initial eligibility determination, completion of monitoring forms is required on an annual basis. I/We certify that I/we have disclosed all information pertaining to my/our application and that the information presented in the foregoing Sections I through IV is true and accurate to the best of my (our) knowledge.

Tenant Date

Tenant Date

For more information regarding this application, please contact management staff at (760) _____.

FOR OFFICE USE ONLY

_____ Information verified

_____ Income category

_____ Maximum allowable annual income (_____% of median)

_____ Applicant's annual income _____ gross monthly _____ max housing costs

Comments: _____

Management Staff

Date

APPENDIX 7: Estimated Monitoring Staff Time

Jurisdiction	Monitoring Frequency	Monitoring Staff	Time Spent Monitoring Units
City of Carlsbad	Quarterly	N/A	N/A
City of Davis	Annually	1	75% of fulltime job
City of Irvine	Annually	1	1.5 month, fulltime job
City of Sacramento	Annually	2	20% of fulltime jobs
City of Santa Monica	Annually	1-2	Fulltime jobs
City of West Hollywood	Annually	1	20% of fulltime job
County of Monterey	Bi-annually	2	6 months, fulltime job
County of San Francisco	Annual	N/A	N/A