Fees vs. Units:
Designing an Effective Inclusionary Policy
June 6, 2018
Agenda

- Welcome & Introductions
- Research Summary: Place Matters
- Legal Framework
- Fees vs. Units: Real World Examples
- Additional Resources
- Q & A / Discussion
• Stephanie Reyes, Grounded Solutions Network
• Josh Abrams, Baird + Driskell Community Planning
• Rick Jacobus, Street Level Advisors
Mixed-Income Communities

How important is it to create more economic and/or racial integration? Is it enough to integrate neighborhoods or do we need to integrate each building?
Q: How important is it to create more economic and/or racial integration?

A: Very important, especially for children.
Differences in poverty rate in the neighborhood where kids grow up make a bigger difference to their economic future than differences in parents income.

Moving to an economically integrated community improves the life chances for lower income kids - The earlier they move the greater the benefit
### Median quality of nearest school

<table>
<thead>
<tr>
<th>Category</th>
<th>Percentile</th>
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<tbody>
<tr>
<td>Public Housing</td>
<td>19th</td>
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<tr>
<td>Tax Credits</td>
<td>30th</td>
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<td>Housing Choice Voucher Holders</td>
<td>26th</td>
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<td>30th Percentile</td>
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<tr>
<td>Housing Choice Voucher Holders</td>
<td>26th Percentile</td>
</tr>
<tr>
<td>Inclusionary Housing</td>
<td>40th to 60th percentile</td>
</tr>
</tbody>
</table>

Mixed-Income Communities

How important is it to create more economic and/or racial integration? Is it enough to integrate neighborhoods or do we need to integrate each building?
Q: Is it enough to integrate neighborhoods or do we need to integrate each building?

A: Reply hazy, try again
Studies have found that most interactions occur between people of similar socioeconomic background. Cross-income interactions tend to be infrequent and superficial.

“The benefits that low income families have realized from living in mixed-income developments and income-diverse neighborhoods have been derived from improvements in place rather than interactions with people.”

“Mixed-income strategies that extend beyond those covered here include… research on mixed-income achieved through inclusionary zoning programs.”

Benefit of neighborhood integration to low-income households

Benefit of building integration to low-income households

Benefit of integration to higher-income households
Impact Fees and Inclusionary Zoning

Josh Abrams
Baird + Driskell Community Planning
Two Questions

1) Do you want fees or units
2) Should you name it “inclusionary” or “impact fees”
Inclusionary Zoning

Police power:
Health, safety, morals, and general welfare
A Short History

Steady trend of cities in high cost areas adopting inclusionary zoning programs

1974 2009
Steady trend of cities in high cost areas adopt inclusionary zoning programs

Inclusionary Era
1974 - 2009

A Short History
Grounded Solutions
Inclusionary Map

https://gsn.maps.arcgis.com/apps/webappviewer/index.html?id=c4c8ebef970b43f597de7bfd2fd1b954
Impact Fees Era – 2010-2016

Palmer Case Shakes Up Inclusionary Housing Rules for Rental Projects

October 29, 2009 | Andrew Junius

Earlier this year, the California Court of Appeal in Palmer vs. City of Los Angeles (2009) 175 Cal.App.4th 1396 (“Palmer”) issued a ruling that could have a major impact on how local inclusionary housing rules are applied to rental projects. Last week the California Supreme Court decided not to take the case up and therefore the Palmer decision stands. Below we discuss the case and what it might mean for the future of rental inclusionary rules.

Facts. A Los Angeles developer obtained approval in 2006 for a mixed-use residential project that included 350 residential units. The Planning Commission approved the project subject to the local inclusionary affordable housing rule, which required that the developer provide 60 replacement low-income dwelling units, either on-site, or pay an in-lieu fee, and execute an agreement with the City to maintain the rental restrictions for a period of 30 years after the Certificate of Occupancy was issued. The developer had requested waivers and otherwise exhausted his administrative remedies to avoid the fee.
Impact Fees Era 2010-2016

Impact fee - Charge imposed by a local government on a new development project that is used to reduce the impacts of that development or provide infrastructure associated with the new development.
Of the 737,000 people in San Mateo County, all but 23,000 live in participating jurisdictions.

- Belmont
- Brisbane
- Burlingame
- Colma
- Daly City
- East Palo Alto
- Foster City
- Half Moon Bay
- Menlo Park
- Millbrae
- Pacifica
- Portola Valley
- Redwood City
- San Bruno
- San Carlos
- San Mateo County
- San Mateo
- South San Francisco

= 7,000 people
California Impact Fees Era
2010-2016

- Cupertino
- Mountain View
- Palo Alto
- Sunnyvale
- Campbell
- Los Altos
- Milpitas
- Santa Clara
- Santa Clara County
- Saratoga

Already completed both studies

Participating
• **Nexus study required** (and must be updated), methodology untested in courts
• **Mitigation fee** act may be triggered, untested in courts
• **Limits on spending** the money
• **Fees** tend to be lower
California Building Industry Ass’n v. City of San Jose

California Supreme Court Upholds Residential Inclusionary Zoning Ordinance.

Recent Case: 351 P.3d 974 (Cal. 2015)

Ghettoization, or the concentration of poverty within small geographic areas, has long plagued many cities. Ghettoization has wide-ranging impacts on both individuals and municipalities: for example, it begets racial segregation...
2018
Inclusionary Era - Rejoinder

In California, a Victorious “Fix” for Inclusionary Housing

Zach Murray  November 29, 2017

At the close of the 2017 legislative session in September, California legislators passed 15 bills as part of a comprehensive housing package later signed by Gov. Jerry Brown. The historic legislative package includes a $4 billion bond measure to be placed on the 2018 ballot and a new fee on real
Advantages of Inclusionary

• No broad-scale challenge possible in California
• No nexus study to do or refresh (or be sued about)
• No mitigation fee act reporting rules or limits
• Often there is support for higher requirements
Fees and Units

Traditional Inclusionary

Funds

Units
Fees and Units

Fee Favoring Inclusionary
Redwood City Inclusionary

Step 1 – Internal discussions and priority setting
Step 2 – Conduct market analysis
Step 3 – Model alternatives

1) Decide on the priority affordability level
2) Compare the cost to the old requirement
# Prototype - Rental

<table>
<thead>
<tr>
<th>Units</th>
<th>225, mostly 1 and 2 bdrms</th>
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<tbody>
<tr>
<td>Size</td>
<td>1 acre</td>
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<tr>
<td>Land costs</td>
<td>$100,000 per unit</td>
</tr>
<tr>
<td>Hard costs</td>
<td>$340 per sf</td>
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<tr>
<td>Soft costs</td>
<td>20% of hard costs</td>
</tr>
<tr>
<td>Profit target</td>
<td>18%</td>
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<tr>
<td>Size</td>
<td>240,000 rentable sf</td>
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</table>
Residential / Affordable Housing Nexus

1. New market rate homes
2. New jobs, some pay low wages
3. Need for new affordable homes
Commercial / Affordable Housing Nexus

New jobs, some pay low wages

Need for new affordable homes
Nexus Study

- Expected development
- Disposal income or residents or employees
- Affordability gap (cost to build new housing)

Data:
Incomes, spending patterns, cost to build affordable homes
Feasibility

• Feasibility Studies
  – Appropriate fee levels
  – Goal is not to adversely impact development
  – Should be lower than the legal maximum
  – Not required, but recommended
Effect on Fees on Home Prices

Homes for Sale in San Mateo County
Effect on Prices

$100
Final sales price (determined by market)

$40
Construction price

$10
Desired profit

$50
Land Price

$100
Final sales price (determined by market)

$45
Construction price and fees

$10
Desired profit

$45
Land Price
Effect on Prices

“The argument against inclusionary housing would probably lose much of its power if it became widely known that, in the long run, landowners and not homebuyers bear the costs.”

-Nico Calavita and Kenneth Grimes in the Journal of the American Planning Association
Considerations

• Leverage
• Time to spend fees
• Access to land/projects
• Economic integration
• Local capacity/Administration
• Community support
Leverage
Case Study

- Seattle Incentive Zoning Program

- Most developers are given a choice between providing units on site or paying a fee

- In every case, developers with the choice paid the fee

- Should the program be changed to require onsite units only?
How long does it take to spend fee $?

- Between 2000 and 2013 it took the Office of Housing an average of 47 months (3.9 years) to spend fee revenue.
Between 2000 and 2012...

Seattle invested $230 million in 124 developments providing 6,338 units of affordable housing
10% of the City’s investment came from Bonus funds (in lieu fees)
Bonus $ was invested in 23 projects which produced a total of 1446 units.
But the bonus $ was a small portion of each project’s financing
The average was only $15,867 of Bonus per unit funded.
But the Bonus $ made 4% tax credit deals possible that would not have been funded if other funds had been used up on earlier projects.
These are the projects that would not have been built ‘but for’ the bonus funds.
These 4% projects leveraged $292,000 in county, state and federal investment.
The average City investment in 4% LIHTC projects was $43,768

2009 - 2012 average was $49,177
The $22,170,884 in Bonus Funds, led to the creation of 507 affordable units. This is the number of units that would not have been built if the Bonus $ was not available.
The fee funded projects served households earning 30-60% of AMI.

Where on-site units would have served households at 80% of AMI.
What the bonus floor area is “worth” to a developer

$325,000
“Cost” to provide one unit onsite

$146,000
Fee In Lieu

~$49,000
City cost per LIHTC Unit

Source: DRA Feasibility Study, Downtown Rental Prototype
In Lieu Fees and Economic Integration
Are the units produced in significantly different neighborhoods than the projects paying the fees?
“Opportunity cost” differs by neighborhood

Opportunity Cost

<table>
<thead>
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<th>High Demand Areas</th>
<th>Lower Demand Areas</th>
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Low Fee Program

Opportunity Cost

High Demand Areas

Lower Demand Areas

Fees

Units
High Fee Program

Opportunity Cost

Units

High Demand Areas

Lower Demand Areas
Opportunity Cost

High Cost

Low Cost

Land Dedication
Program Administration

Supporting Development

1. Developer Options
2. Pricing
3. Marketing
4. Eligibility Screening
5. Buyer Financing

Long Term Stewardship

1. Monitoring
2. Enforcement
3. Managing resales
Third Party Stewardship

- Local Government
- Private Contractor/Realtor
- Quasi Governmental Agency
- Housing Nonprofit
- Community Land Trust
Additional Resources
Additional Resources

**Grounded Solutions Network resources**

- Inclusionary Housing Calculator
  [inclusionaryhousing.org/calculator](http://inclusionaryhousing.org/calculator)

- Inclusionary Housing Database Map
  [inclusionaryhousing.org/map](http://inclusionaryhousing.org/map)

- In-Lieu Fee section of InclusionaryHousing.org

- Grounded Solutions Network membership
  [groundedsolutions.org/membership/](http://groundedsolutions.org/membership/)
Additional Resources

San Mateo County resources

- 21 Elements
  [21elements.com](21elements.com)

- Housing Endowment and Regional Trust (HEART)
  [heartofsmc.org](heartofsmc.org)
Contacts

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• Josh Abrams, Baird + Driskell Community Planning abrams@bdplanning.com
• Rick Jacobus, Street Level Advisors rick@streetleveladvisors.com