Understanding Inclusionary Zoning Policies and Its Impact on the Production of Affordable

Housing in the City of Sacramento

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**Abstract**

As the housing affordability crisis escalates and the prevalence of homelessness continues to rise, the City of Sacramento has begun exploring a possible update to its “Mixed Income Housing Ordinance,”, also known as its inclusionary zoning program. Inclusionary zoning has been a tool used by localities since the 1970s with varied effect and impact on the production of affordable housing. Past examples of these programs in California and across the country have demonstrated the role geography/location and the design of the program plays in program effectiveness. Factors affecting a program’s effectiveness include the differences in location’s housing markets, the scope of the jurisdiction’s impact fees, the flexibility of choice, and the variation of options within the program.

Sacramento’s previous rendition of an inclusionary zoning program yielded interesting findings and helps to inform how the city should proceed with this update. The city’s original phase of their program was measurability successful in its intended goals, but this was partly the result of a booming housing market. That was followed by a period of economic downturn resulting in a sharp downturn in production of affordable housing units and a need to update the inclusionary zoning plan. This update in 2015 led to an even more successful period for the program, but the resulting changes following 2020 pandemic has persuaded city officials to pursue yet another update. Upon the review of historic examples and the analysis of the city’s previous inclusionary zoning phases, an update that allows flexibility in choice and a wide variation of options to select from is the best possible option. If Sacramento is serious about producing more affordable housing units and getting the unhoused off the street, the update must be perused in consideration of historic evidence and the city’s own analysis.

**Introduction**

Shelter is a basic necessity of life, something everyone *should* have equal access and opportunity to obtain. Unfortunately, not everyone does. California has been in the grips of a housing shortage for almost a decade and the problem has only grown worst since the outbreak of the COVID-19 pandemic. The housing crisis has left millions on the street and millions without the opportunity for home ownership. This housing shortage can be seen and felt throughout the state as this problem is not limited to the elite cities like Los Angeles and San Francisco. Political leaders across the state are proposing and testing policy solutions to alleviate this housing problem. Just like the largest cities in the state, Sacramento is dealing with the prevalence of housing unaffordability, high rents, homelessness, and a mental health epidemic. Throughout the state policies solutions are being explored to remedy these issues.

 The City of Sacramento is in the process of exploring a potential update to a city-wide policy aimed at creating more affordable housing units. At the direction of the city council, city staff have begun to explore the possibility of updating what the city calls their “Mixed Income Housing Ordinance” (Clift, 2023). While the city has labeled this policy as a mixed income housing ordinance, its basic principles are identical to those of a traditional “inclusionary zoning” policy and will be referred to as such (or with the initials “IZ”) throughout the paper. This move by the city is controversial and has some questioning the policy’s effectiveness in achieving its established goals. IZ has a tested history in California and in other parts of the country, and even a tested history in the City of Sacramento, but does it create more affordable housing? The history of IZ is jaded, and its effectiveness is questionable, especially when considering regional differences which potentially factor into the policy’s impact. The very term “inclusionary zoning” is complicated and is not easy defined.

This paper offers an in-depth historical review of IZ and how this policy functioned in other parts of the state and country; an analysis of inclusionary zoning in the city of Sacramento; and a discussion on the finding and potential uses of this paper. This paper is intended to be a non-biased, objective assessment of a popular public policy in attempts to understand its impact and its utility when exploring options for creating more affordable housing.

**Background**

In California, roughly 173,800 individuals are without stable shelter; this is an increase of over 20,000 since 2019 (Hoeven, 2022). The cost of affording a home in California has also skyrocketed over the past 20 years, with the median price of a home well above $800,000, resulting in only 18% of Californian households being able to afford a median priced home (Walters, 2022). Every major metropolitan region in the state is tasked with the difficult role of developing strategies to increase housing production and make housing more attainable for everyone.

The Sacramento Metropolitan Area is experiencing a uniquely high volume of migration to its cities from many leaving high-priced regions like Los Angeles (L.A.) and the Bay Area (Fletcher, 2020). The COVID-19 pandemic has changed how and where people can work, meaning work doesn’t have to happen in an office anymore, and job hubs like L.A. and the Bay Area are not as attractive to buyers. These changes to the region have forced local leaders to explore policies to address the housing shortage, the City of Sacramento is exploring the possibility of updating their inclusionary zoning policy.

The policy of inclusionary zoning is defined differently according to who you ask, but at its core is meant to create affordable housing by encouraging, and in some jurisdictions even requiring, housing developers to produce affordable units with their market rate projects. The design of these programs is not uniform; many factors are considered, and many variables are involved. Cities and counties will encourage affordable housing through certain incentives like permit streamlining, fee waivers and design exemptions; conversely, they can also mandate that a certain percentage of proposed market rate units must be set-aside, deed restricted and made affordable. This policy is utilized very differently across the state and nation.

Inclusionary Zoning has been around for over 50 years. Its inception was in 1971 in Virginia, but this was struck down due to its unconstitutionality; later in 1974 the first legal inclusionary zoning ordinance was adopted (Chicago Metropolitan Agency for Planning, n.d.). Since these are local ordinances which deal with local matters, state law and a state’s constitution affects the size and scope of an IZ policy. Every IZ policy is going to look different, with variations in set-aside requirements, optional in-lieu fee, trigger thresholds. There are a list of factors and variables that result in differences in IZ policies, while the intentions of the policies may be the same, their outcomes differ greatly. Table 1 shows key questions that drive variances in IZ policy and why these variances are important when understanding the impact of this policy.

**Table 1. Key Questions Driving Inclusionary Zoning Policy Choices**

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| --- | --- |
| *Variances in Inclusionary Zoning Program and Question to Ask* | *Why is this important?* |
| 1. Is the inclusion of affordable units required or optional? | Not every program requires affordable units to be required, rather they promote the production of affordable housing through certain incentives |
| 2. If affordable units are required, what percentage must be set-aside and made affordable? | Set-aside percentages are not static and range from requiring 5% of the project to be affordable up to 30% of the total units. |
| 3. What type of housing project is being proposed?  | The type of project can trigger different IZ requirement, (i.e., redevelopment of an existing building, build for rent, multifamily, market-rate, senior housing?  |
| 4. What is the targeted income group?  | Income targeting means identifying which income groups will be allowed access to the affordable units being produced |
| 5. Are alternatives to set-aside requirements provided  | Some IZ programs will allow alternatives to meeting the IZ program requirements, this can usually be fulfilled through payment of an in-lieu fee |
| 6. How long must the affordable units remain affordable?  | The duration which a units must remain affordable under an IZ program can vary from jurisdiction.  |

There are many reasons why a city council or county board of supervisors would be interested in implementing an inclusionary zoning ordinance. Cities and counties around the country have implemented varied versions of an IZ policy in hopes to aid in the production of affordable housing and get unhoused Americans off the street. While the objective of the policy is to increase the production of affordable units, it also has some additional community benefits. Local jurisdictions pursue this policy solution for many reasons, mainly the goal of producing more housing but benefits may also include displacement mitigation, limiting direct public investment in affordable housing, and providing increased access to higher-performing schools. IZ lives up to its name to the extent that it allows more inclusive housing to be produced that is accessible at any income level. When housing is more accessible and more inclusive to all, it increases racial and economic diversity, promotes economic growth in surrounding neighborhoods and increases opportunities for individuals to access jobs and community amenities (Home for All of San Mateo County, n.d.).

**EXAMPLE GRAPHIC OF WHAT IZ DOES**

**Lessons from Previous Examples of Inclusionary Zoning Programs**

The policy of inclusionary zoning has been written on and studied since the 1970s, leading to a wide array of studies, research articles, and government reports to be produced on the topic. Contained in this section is a review of relevant sources to establish a deeper understanding of the history, impact, and effects of IZ. Reoccurring themes will be extracted and expanded on in order to determine the impact of an IZ policy on the production of affordable housing units in the city of Sacramento. The research into IZ is diverse and the conclusions vary. Two major themes continue to reoccur that require further exploration to explain the impact IZ has on affordable housing production: the location of the housing market and the design of the IZ program. Throughout the literature, conflicting reports of the effectiveness of IZ continues to spur more research into the topic. For the purpose of this paper, this review of past IZ examples will contribute and inform the conclusive results of the effectiveness of the IZ program in the city of Sacramento. Identified in past examples were the following areas that may help to explain the varied effectiveness of inclusionary programs:

1. **Location of Housing Market**

Through a review of the relevant literature on this topic, a notable fact that must be highlighted is the importance of where these programs are being adopted, across different cities, counties, regions, and states. The effectiveness of inclusionary zoning programs seems subject to differences and variation in housing markets. The housing markets of Los Angeles, San Francisco and Sacramento are vastly different from one another, even more so between California cities and cities in other states. The application of an IZ policy across these vastly different cities leads to interesting results that call into questions the usefulness of the policy. The literature reveals that some programs are quite effective, like those in Montgomery County, Maryland or in the Southern California region (Los Angeles, Orange, Riverside, San Bernardino, and Ventura counties), while others in Boston or Monterey, California are not as effective. In Montgomery County, Maryland, they were able to implement a program that produced 9,657 moderately priced units from 2002-2013, twice the number of rental units produced during the same period (Dawkins et al. 2017). The research suggests that large suburban communities like Montgomery County can utilize IZ to expand the supply of affordable housing while allowing low-income homeowners to make use of favorable market conditions and accrue greater equity (Dawkins et al. 2017). Not every program has been nearly as impactful. The IZ programs in the San Francisco Metropolitan Area and the suburbs of Boston reveal differences in the program’s effectiveness. An impact was seen on housing prices in Boston and production decreased, in SF no statistically significant impact was observed when the IZ was implemented (Schuetz et al., 2011). The design of a IZ program is also shown to be effective when types of housing units produced are considered and that match the needs of the individual who will be living there, not a one size fits all approach (Dawkins et al., 2017). This research demonstrates the role specific housing markets have on the impact of a program. After reviewing these previous examples of IZ programs and noting the impact geographical location can have on the effectiveness of a program, this could be further scrutinized for a greater explanation as to *why*:

1. ***Difference in Market Type***

The market type plays a role in the impact of IZ. Developers in a booming housing market can provide these below market units and recoup a greater profit than in a market that may be slower in sales (Ramakrishnan et al., 2019). With greater ease of profitability, this can lead to a greater production of units, and under an IZ program, a greater production of affordable units. Regional housing markets are complicated and are influenced by a multitude of factors; discrepancies exist between markets because of the region’s job market, supply chain constraints, and other financial shocks that occur in the financial sector (Claessens &Schanz, 2019).

1. ***Development Impact Fees***

Impact fees play a crucial part in the development of new communities in California. Since the approval of Proposition 13 by California voters in 1978, local jurisdictions have needed to find other methods of collecting and growing their revenue streams (Terner Center for Housing Innovation, 2019). With the property taxes being capped, local governments needed to rely on alternative revenue sources to fund infrastructure. Furthermore, A study from the North State Building Industry Association revealed that the average fees per unit in the Sacramento region are higher than other parts of the California and significantly higher than in other states. This study shows that the impact fees paid per unit in the Sacramento region are almost $40,000 more than in other parts of the state. Drastic regional differences in housing markets are obvious and appear as a factor when considering IZ’s effectiveness. The existing research is pointing towards geographical differences as a partial explanation for differences in the effectiveness of the IZ programs being implemented.

1. **Program Design**

The theme that continues to repeat itself in the research conducted on inclusionary zoning is about the design of the program itself and how that may be the greatest factor in understanding this policy’s impact. As Table 1 suggests, every IZ program will be designed differently from one jurisdiction to another, yielding interesting findings about how certain aspects of the program can influence the production of more affordable units. When compensatory benefits are offered through IZ programs like flexibility in design, permit fast tracking density bonuses, or subsides, it incentivizes builder/developers to make use of the IZ program and produce affordable units with added economic benefits (Garde, 2016). Through the literature, a mixed review of IZ is evident, from some jurisdictions having IZ produce more affordable units than under other programs like the Low-Income Housing Tax Credit (Schuetz et al., 2011). Some programs have led to both an increase in housing prices and a decrease in the production of affordable units, like in Boston (Ramakrishnan et al., 2019). The way in which an IZ program is designed can vary in many ways, is it voluntary or mandatory? Does is require on-site construction of affordable units? Can a fee be paid in-lieu of the production of units? What about the design of these programs makes for an effective IZ policy?

1. ***Variation in Options***

Flexibility and variation are distinctly different here. Flexibility in the capacity to choose gives builders the ability to select the best option for them, while variation in the options allows developers to better adapt their project to the needs of market while producing affordable units. Rather than mandate a single standard approach for every proposed development project, developers are more likely to build in an area if they have options that are more financially advantageous for their project. To have variation in the options builders can select from would include building affordable units on or off site to the original project or choosing to build the units or pay an in-lieu fee or donate portion of land to the city for affordable unit production.

***Flexibility in Choice***

The allowance of flexibility is highly stressed throughout the available literature. When housing developers were given the flexibility in choice to select from when complying with the IZ ordinance, it allowed for the production of more affordable units. Another method of allowing more flexibility in the program is to allow an incremental phase-in of a new IZ program. This allows developers more time to rework financial plans and better adapt their projects to new local requirements, which makes the program less burdensome. Flexibility allows these programs to be mailable and can better curtail the IZ program requirements to function with the projects original design. Hardline requirements about how a builder goes about meetings the IZ program requirements creates more barriers for producing units.

The literature on previous inclusionary zoning programs demonstrates that the variations in these programs, in unison with the impact the local housing market, has resulted in a policy that is neither uniformly applied nor yields uniform results across the country, and even within the state of California. After reviewing previous research on the topic, the two major factors of location and design of the program seem to have the greatest influence on IZ’s ability to produce affordable units. With these notable points, I turn now to the implication for Sacramento and the city’s own goals of increasing affordable housing production.

**Case Study: City of Sacramento**

The City of Sacramento is a booming city located in the heart of Northern California and serves as the state’s capital and seat of government for the state. The city has an estimated population of over 528,000 individuals, with a homeless population of roughly 9,930 people on any given night (United State Census Bureau, 2023; Nichols, 2022). The housing market in Sacramento is very competitive; as of October 2023, the median home price was $500k, this is a 1.7% increase from last year (Redfin, 2023). Since the start of the COVID-19 pandemic, Sacramento has seen a major influx of individuals moving from the San Francisco/Bay Area in favor the lower prices and more space. In 2020, migration from San Francisco to Sacramento increased by 70%, with another 4% of growth expected for Sacramento in the next five years (Mclean, 2023). This major change to the city’s population, coupled with an already outrageous homeless problem, has left city leaders exploring options to generate more affordable housing. With there being several policy levers that could be pulled to aide in the city’s pursuit of increasing affordability and production of housing, the city of Sacramento is now considering an update to their inclusionary zoning program. The city’s policy has been re-labeled as a “Mixed Income Housing Ordinance”, though it still has all the properties of a typical inclusionary zoning policy from the previous literature and will be referred to as such.

 The city’s original inclusionary zoning program was adopted in 2000. This program required developers in new growth areas to make 15% of their project affordable (Keyser Marston Associates, Inc., 2023). The policy was successful in producing affordable units for a period but was changed when market conditions no longer made it feasible. From 2000 – 2007, the program was robust and successful but faltered when the great recession hit. The period from 2009 – 2014 saw almost all housing projects come to a halt (Keyser Marston Associates, Inc., 2023).

What was at play during the early 2000s that led to a successful program? The booming housing market of the early 2000s laid the scene for a productive program that resulted in affordable housing production. Unfortunately, these times were not sustainable and eventually gave way to a stalling of the market, raises in interest rates and a massive bursting of the housing bubble that led to 2.3 million foreclosures, or 1.5% of all housing units in 2008 (Pew Research Center, 2009). Before the start of the recession and the adjustment of the city’s IZ program, 1,557 units were produced between 2000 – 2007, roughly 104 units a year (Keyser Marston Associates, Inc., 2023). Changing circumstances led the city to seek an update to the ordinance in 2015.

For the City of Sacramento, their inclusionary zoning policy was in jeopardy. Outside of the state of the economy following the housing market crash of 2008, two main factors contributed to the City’s decision to pursue an update to the IZ program in 2015: 2012’s dissolvent of redevelopment agencies and *California Building Industry Assoc*iation v. *City of San Jose*. Following financial difficulties at the state and local level and a need for more revenue, California’s over 400 redevelopment agencies were dissolved (California Department of Finance, n.d.). Property taxes once going to the aid in the production of affordable housing was now required for payments on existing bonds and other obligations by the local governments, as mandated by the state (California Department of Finance, n.d.). Apart from the state of the economy, the California Supreme Court was weighing an important question on the legitimacy of inclusionary zoning. In *California Building Industry Association* v. *City of San Jose* (2015), the Supreme Court of California deemed San Jose’s ordinance “as use restrictions and not confiscations of property or money, are not subject to a rigorous analysis under the U.S. Supreme Court’s ‘exactions’ doctrine” (Harvard Law Review, 2016). The mix of financial difficulties and pending court case led the City of Sacramento’s 2015 ordinance update. Formerly, the ordinance was restricted to dedicated growth zones, this was expanded to include the entire city, they also shifted away from a mandatory 15% set-aside requirement to a new fee-based system (Keyser Marston Associates, Inc., 2023). These major programmatic changes to the policy led to interesting results that can help to inform how the city should proceed in updating the policy in 2023.

 The city’s response to changes in the housing market and availability of local revenue led to major changes to their inclusionary zoning program. The change was from requiring developers to set-aside 15% of their total units for low and very low-income earners to a system that collects a fee in-lieu of the set-aside had interesting results. From 2015 – 2021, Sacramento collected $6.6 million from developers in fees, $4.7 million has been committed to three affordable projects, with a combined total of 856 units being supported through the 2015 update of the IZ program (Keyser Marston Associates, Inc., 2023). On average, the annual number of units produced per year were higher under the 2015 update to the program compared to its original iteration from 2000 – 2014. Figure 1, below, paints a clearer picture in the three different phases in this program’s history.

The first phase from 2000-2008 shows a period of growth and development, following the 2008 crash is an obvious drop-in permitting numbers. The final phase from 2015 to present day shows a notable increase when the ordinance was updated in 2015. These three distinctly different periods of IZ in Sacramento can be analyzed further for lessons and recommendations for the future.

**Figure 1. Total Housing Units Permitted in the City of Sacramento (2000-2021)**



Currently, the city is pursuing its second update of this policy in its 23-year lifetime. After staff review, independent analysis and approval by the city’s planning commission, the following proposal for the ordinance update will go to the City council for approval in December 2023. The following proposal lists five possible updates, sourced from the City of Sacramento Community Development Department’s Memoranda on the Mixed Income Housing Ordinance Preliminary Recommendations. The Sacramento City Council will be tasked with adopting one or more of the possible updates below.

1. *On-site Affordability Requirement*:



This update option distinguishes between rental and for-sale units, both have a slew of options that the builder may decide that is best for their project. This update requires builders to set-aside a certain percentage of units on location and offer them as affordable units. “AMI” denotes Area Median Income and is calculated using California’s State Income Limits (City of Sacramento Community Development Department, 2023).

1. *Alternatives To Including Affordable Units On-Site – In Lieu Fee*



This option allows builders to pay a fee on rental and for-sale units in-lieu of setting aside a certain percentage of units. This option calculates the fees based on the square footage of the unit. Land Dedication to Sacramento Housing Redevelopment Agency within a half mile of the proposed project is another alterative that can be selected within this option, subject to approval.

1. *In-Lieu Fee Phase In* – This is like the previous alterative but rather implements a fee system with a trigger so that the first 2,500 market rate permits that are pulled are priced at the first step, after that, the next 2,500 are subject to the second step‘s fees. After 5,000 market rate permits have been pulled the final step will be triggered for development going forward.
2. *Incentives for On-Site Units* – Subject to the approval of one of the in-lieu fee structures being adopted, it is expected that most will pay the fee and forego including any affordable units in their project. If a project elects to include affordable units in their projects potential incentives for developers to do so might include reduction of impact fees, infrastructure improvements, and density bonuses.
3. *Providing Options for Large Projects*



This update would allow large scale project four separate options for meeting the IZ requirement. This would only be applicable to project at or over 750 units and a site size 15 acres or larger.

**Discussion**

The three periods of Sacramento’s 23-year history of inclusionary zoning are distinctly different from one another. The first edition of the IZ program took effect during a period of enormous growth of the housing market, a growth that was so large it became unstainable and led to the 2008 housing market crash. The second phase following the crash and prior to the 2015 saw a dramatic decrease in production. The updated ordinance went into effect in 2015; this was a response to a downturn in housing production and a major loss of local revenue for redevelopment. In turn a fee-based program replaced the former 15% required set-asides. While the annual production numbers between the two period are similar, more units were produced yearly, on average, under the fee-based system starting in 2015 than in the program’s original form. More has to be considered when determining to correct approach for the city to take during this update.

A recent change in political will on the city council regarding IZ has led to the city council to request a proposed update to the ordinance. Councilmember Valenzuela of Sacramento had this to say on the topic “While we continue to work to scale up temporary shelter and services, we must also move upstream to address the root cause of this crisis — lack of affordable housing options and low wage jobs,” (Clift, 2023). The desire from the current city council to generate solutions to the housing affordability and homelessness issue is palpable, but not everyone on the city council is sure this is the correct approach. Councilmember Eric Guerra had this to say on the proposed update, “I want to make sure we understand moving forward we also are not creating a scenario that as we’re doing that, we disincentivize the interest in Sacramento to people” (Clift, 2023). The approach must be one specifically designed for the needs and challenges unique to Sacramento; the policy must be made to fit the city, not the other way around.

 City staff has developed a proposed update to the ordinance which has been studied and reviewed for its feasibility by an independent consulting firm. The proposed update will go before the city council for a final review, at which point the council will select one or a variety of alternatives to update to ordinance with. This decision from the council will have an impact on development throughout the city, but there is potential for unintended consequences. Builders, developers and real estate agents across the city have already expressed their firm disapproval for an update of this plan, noting that this move will “demonize providers and cause unneeded strife in the housing market,” (Clift, 2023). The U.S. economy is suffering from high inflation, supply chain constraints still linger, and mortgage rates are sitting sound 8%. Currently the city is in a period of growth that has allowed for the production of homes and an increase in the city’s population.

This paper covers a wide basis of information surrounding the history, impact, and real-life examples of inclusionary zoning in California and across the country. Based on my review of the IZ literature and the experience of other jurisdictions, I believe it would be in the city’s best interest to adopt a policy which considers the constraints on the regional housing market, acknowledges the city’s already exceptionally high development impact fees, allows for flexibility in choice and offers a variety of options to select from. My conclusion on the path froward for the City of Sacramento is based on historical evidence since the 1970s, an analysis for the city’s former program and an assessment of the proposed update. Sacramento can make this a policy that aids in reaching the intended goal of no homeless on the street and affordable housing for all, but lessons from the past must be heeded.

**Conclusion**

The housing shortage and affordability crisis is growing in California, requiring governments at all levels to explore options to remedy this. Inclusionary zoning is a complicated topic, but since the 1970s, many variations of this policy have been tested. The City of Sacramento has its own complicated history with inclusionary zoning and its plans of updating its current program should not be considered lightly. Through a review of previous examples, geographical location and design of the program seemed to have the biggest impact on the outcome of the program’s effectiveness. Sacramento’s current housing market is facing a massive influx of migration from other parts of the state, the highest impact fees in the region, 8% inflation rates and supply chain constraints. It is questionable whether city policy makers should pursue a hardline on-site affordable unit set-aside requirement if they truly intend to increase housing production and reduce unaffordability. There needs to be fewer barriers to producing more housing, not more, and an action by the city of Sacramento to re-introduce set-aside requirements will result in fewer affordable units being produced. Inclusionary zoning has benefits. When its design is flexible and the specific housing market is considered, this policy can be effective, but it is not the panacea many in the city of Sacramento think it is.

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