

BALANCING PRODUCTION AND INTEGRATION IN INCLUSIONARY HOUSING
PROGRAMS: A COMPARATIVE STUDY OF FOUR CALIFORNIA CITIES

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A Thesis

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Abstract

of

BALANCING PRODUCTION AND INTEGRATION IN INCLUSIONARY HOUSING PROGRAMS: A COMPARATIVE STUDY OF FOUR CALIFORNIA CITIES

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Danell L. Brewster

Local jurisdictions adopt inclusionary housing programs to promote two policy objectives: the production of affordable housing and the economic integration of affordable housing. Under standard inclusionary housing obligations, developers construct affordable units within their own market-rate development sites. To promote feasibility and production, most inclusionary housing programs now offer policy alternatives to such on-site construction. Some analysts warn that alternatives to on-site construction may work to frustrate the integration goal of inclusionary housing programs. City and county officials formulating and implementing inclusionary housing programs confront a difficult policy dilemma when they consider policy alternatives that further the programs' production objectives at the potential expense of the programs' integration objectives.

Using data collected from the inclusionary housing program documents, the housing elements, and implementing staff officials of four California cities, this study examined cities' attempts to balance the affordable housing production and economic integration objectives of their inclusionary housing programs. The research also looked for patterns in the policy treatments of production and integration objectives in varying development environments.

The study found the largest variation in the cities' management of conflicting production and integration objectives to be associated with the income levels served by the programs. Serving very low income and special needs households emerged as posing the greatest challenge cities face in balancing the production and integration objectives of their inclusionary housing programs. The cities' experiences suggest that, if officials and advocates seek to maximize the overall benefits for very low income households served by inclusionary housing programs, they may need to prioritize the production of very low

income units in new development areas over the fine degree of integration contemplated by standard inclusionary obligations.

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Chapter 1 INTRODUCTION AND BACKGROUND

Introduction

Amidst deep concern over a shortage of affordable housing in California, inclusionary housing policies mandating that developers set aside a percentage of new homes for low to moderate income earners have proliferated in cities and counties across the state. A recent survey by the California Coalition for Rural Housing and the Non-Profit Housing Associates of Northern California (2007) found that between 2003 and 2006 the number of California jurisdictions that had adopted an inclusionary housing program rose from 107 (20% of the cities and counties in the state) to 170 (32%). The authors noted that many of the jurisdictions had adopted their programs since 2000.

Proponents of inclusionary housing programs promote the programs as advancing two ambitious policy objectives: the production of affordable housing and the economic integration of affordable housing. Adopting cities and counties measure success on the first objective, production, by the number of units produced for the groups served by the policies, typically low and moderate income households. For the economic integration objective, success is less easily quantified. In the broadest of terms, it is demonstrated by a balanced mix of incomes living within a community. Economic integration may be better understood by what it seeks to avoid – clusters of poor households in decaying neighborhoods segregated from middle and upper class neighborhoods and opportunities for socio-economic advancement. As I discuss in more detail in Chapter Two, the

literature treats measures of economic integration in terms of degrees that depend largely on the individual and community benefits sought (Mallach, 1984; Downs 1973).

The inclusionary housing policies proliferating throughout the state take many various forms. The starting points of most policies require developers to construct units affordable to low and/or moderate income households (“below market-rate” or BMR units) within their own market-rate development project sites, referred to as “on-site construction.” However, to promote developer feasibility and production, many programs offer alternatives to the on-site construction just described.

Because the alternatives relieve developers from building the affordable units within their market-rate projects, the literature warns that use of the alternatives may frustrate integration objectives. Cities and counties formulating and implementing inclusionary housing programs confront a difficult policy dilemma: should city officials allow alternatives that further the programs’ production objectives at the expense of the programs’ integration objectives; and, if they do allow the alternatives, how can they still ensure that their integration objectives are met?

Considering the growing number of cities and counties with inclusionary housing programs, surprisingly little is known about how the implementing jurisdictions experience this dilemma, or, more importantly, how jurisdictions manage this dilemma. Further, how does the management of production and integration objectives vary between differing local development environments?

This study begins to answer the above questions. The research compares the policies, practices, and development environments of four California cities with inclusionary housing programs with a focus on how the cities manage the balance between their affordable housing production and economic integration objectives within their varying development environments.

The remainder of this chapter briefly discusses the affordable housing crisis within which most of the state's inclusionary housing jurisdictions adopted their programs. Chapter Two presents a review of the theoretical arguments and supportive findings in the literature related to the objectives and criticisms of inclusionary housing programs, key elements of the programs, and the more difficult policy choices that city officials must make as they attempt to balance the production and economic integration objectives of their programs. Chapter Three details the study's research questions, the data sources utilized, and the analytical method used to compare the cities' management of their program objectives. Chapter Four tabulates and analyzes the study's findings. The paper concludes with significant findings and recommendations for further research set out in Chapter Five.

Background: The Affordable Housing Crisis

Despite a recent market downturn, housing prices remain out of reach for many Californians. In August of 2007, the California Department of Housing and Community Development (HCD) described the state's "deepening housing crisis." Citing the California Association of Realtors Homebuyer Income Gap Index, HCD noted "the percentage of first-time buyers in California able to afford an entry level median-priced home stood at 25 percent in the first quarter of 2007, compared with 26 percent for the same period a year ago" (California Department of Housing and Community Development, 2007, p. 2).

Renters are the most burdened by the housing shortage and the greatest need is for multi-family dwellings, typically occupied by low to middle income earners (ibid). According to the Public Policy Institute of California (2006a), as of 2004, 42% of California households were paying more than thirty percent of their income on housing costs, thereby exceeding the threshold recommended by the U.S. Department of Housing and Urban Development.

Calavita (2004) summarized several factors that have led to rapidly increasing housing costs across the state: in-migration which outpaced new building (citing Levy 1991); local opposition to higher density development (citing Fulton 1999, Myers and Park 2002); impact fees imposed for infrastructure following Proposition 13's passage;

fiscal zoning to make up for lost revenue following Proposition 13; and increased environmental protections.

A June 2006 survey of the state's central valley residents conducted by the Public Policy Institute of California (2006b) found that, in the last five years, concern that finding affordable housing in the region is a "big problem" has nearly doubled, from twenty-six percent in 2001 to fifty-one percent in 2006. Voters responded with support for measures to improve the affordable housing shortage. In the state's two most recent elections, California voters approved bond measures to make housing more affordable for low income earners and certain other disadvantaged groups.

It was amidst this backdrop of rapidly increasing housing prices, and an affordable housing shortage that HCD characterized as a "crisis," that many of the inclusionary jurisdictions in the state formulated and adopted their inclusionary housing programs.

Chapter 2 LITERATURE REVIEW

An Overview of Inclusionary Housing Policies

The terms “inclusionary housing program” and “inclusionary zoning” are often used interchangeably. However, under Mallach’s (1984) definition, inclusionary zoning ordinances set out specific requirements that developers provide low and moderate income housing as *an “integral part”* of their proposed market-rate developments (p. 11). The inclusionary zoning ordinance is the central part of a larger inclusionary housing program comprised of many components that seek to facilitate the availability of housing affordable to residents with low and moderate incomes (*ibid*).

Generally, when a city or county adopts an inclusionary housing program, it mandates that a certain percentage of all new housing development projects be affordable to very low, low, and moderate income earning households based on median income levels in the area (Calavita & Grimes, 1998). The income targeting percentages mandated in each category vary among the individual adopting jurisdictions. Increasingly, inclusionary housing programs in California also provide developer incentives such as density bonuses and expedited permitting, as well as flexible alternatives such as in-lieu fees and off-site development (California Coalition for Rural Housing & Non-Profit Housing Association of Northern California, 2004). I discuss the policy considerations and anticipated implications of each of these alternatives in greater detail below.

The Policy Objectives of Inclusionary Housing Programs

Two policy objectives predominate the academic discourse on inclusionary housing programs: the *production* of affordable housing and the *economic integration* of affordable housing (for example, see Mallach, 1984; Burchell & Galley, 2000; Padilla, 1995).

While cities and counties measure production success by the number of inclusionary units built to comply with the inclusionary policies' requirements, measuring the economic integration achieved out of the programs is less straightforward. Downs (1973) first considered the benefits and objectives of economic integration aside the varying "geographic scales" of integration required for them. These objectives include convenient access to jobs in the community, attendance at more affluent schools, frequent interaction with more affluent neighbors, and escape from concentrated poverty (pp. 104-111). Access to jobs, services, and other benefits available in the larger community can be achieved by providing affordable housing opportunities within convenient commuting distance to those benefits, while benefits from school integration and frequent personal interaction require increasingly finer degrees of economic integration (Downs, 1973, Mallach, 1984). Thus, even where separated from more affluent neighborhoods, housing opportunities that increase access to community benefits and employment centers serve some degree of economic integration (Downs, 1973).

Mallach (1984) acknowledges arguments that the value of benefits from integration may be less certain as degrees of integration become finer, and the task of integration more difficult (citing Gans, 1967); he cautions cities to “take these questions very much to heart in the framing and execution of the programs” (p. 44).

Criticisms of Inclusionary Zoning

The chief argument against inclusionary zoning is that it taxes the developer with the cost of the subsidy (the difference between the market-rate price and the price of the affordable unit) (Burchell & Galley, 2000). Some argue that the cost of providing the inclusionary units represents a tax on the market-rate units, raising the cost of all housing (Powell & Stringham, 2004). The classic economic counterpoint to this assertion is that the cost incidence depends on the elasticity of the demand for housing, and that in the long run it is more likely to be born by landowners as developers bid down the price of land in the inclusionary jurisdictions (Basolo & Calavita, 2004). For a thorough review of the economic arguments regarding the incidence of inclusionary zoning mandates, see Kautz (2002) and Porter (2004).

The nature of the housing market makes assessing the negative or positive impacts of inclusionary zoning ordinances on overall supply and prices difficult, and scant research along this vein appears in the literature. Rosen’s (2004) study of permit activity among 28 California cities over a period of 20 years found no correlation

between the adoption of an inclusionary housing program and a reduction in new development. In contrast, Powell and Stringham (2004) observed the number of permits drawn one year prior to and following localities' adoptions of inclusionary ordinances in the state and concluded that the policies have discouraged the overall volume of housing construction in those jurisdictions. However, the authors' research design and analysis have been criticized chiefly for failure to take the contributory effect of the fluctuating housing market into account, for averaging where data was missing, and for making unsupported assumptions as to the cost incidence of the inclusionary units (Basolo & Calavita, 2004). Authors who have written extensively on inclusionary zoning in the state concede that more empirical research is needed to understand the impacts of the policies on overall housing production and prices (Basolo & Calavita, 2004; California Coalition for Rural Housing & Non-Profit Housing Association of Northern California, 2004; Kautz, 2002).

Other criticisms of inclusionary zoning relate to its potential to integrate lower income households into more affluent communities. Smith (2002) observes that the literature reveals few attempts to determine whether residents in mixed income developments actually interact or receive economic or social benefit out of interaction with the other tenants. He writes that the few studies of the degree of resident interactions and employment networking occurring in mixed income developments noted inconsistent results, and that opinion is also mixed as to whether interaction is needed for

transfer of social benefits. More evident, he suggests, is "the importance of living in a healthy, mixed-income community in breaking the cycle of poverty than simply living in an isolated mixed-income development" (p. 2).

Inclusionary Housing Policy Variations

As mentioned above, as of 2006, there were 170 jurisdictions in California with an inclusionary housing program (California Coalition for Rural Housing & Non-Profit Housing Associates of Northern California, 2007). The programs take many forms, designed to accomplish the objectives of the adopting jurisdictions. The relationship of these objectives with the policy choices made in program formulation is discussed in further detail below.

Much of the literature written to provide policy formulation guidance on inclusionary housing programs is theoretical. Empirical research exploring the relationship of specific inclusionary policy variations to the integration objectives of the programs is missing. Further, because the programs seek market-driven solutions to the affordable housing shortage, examination of the relationship between the varying policy forms and the affordable housing produced under the policies is complicated by local market variations also influencing production. Consequently, conflicting evidence appears in the literature. For instance, one report on case studies of three San Francisco Bay Area cities, Sunnyvale, Palo Alto, and San Jose, found that neither the overall

production nor the prices of market-rate housing were factors in the numbers of inclusionary units produced by the localities (Bay Area Economics, 2003). The authors concluded that how the cities applied the ordinance most influenced the success of the program (measured by production). In contrast, a statewide survey (California Coalition for Rural Housing & Non-Profit Housing Associates of Northern California, 2004) found that the population growth average of the most productive programs was far greater (25% vs. 14%) than the average of the other responding jurisdictions, corresponding with evidence from prior studies that inclusionary housing policies work best in robust housing markets (Mallach, 1984).

Despite the research limitations, there is general agreement in the literature on the value of some elements to an inclusionary housing program:

Mandatory programs are more effective than voluntary programs.

Though there are a few cases in which voluntary inclusionary housing programs accompanying substantial incentives and local public agency effort have been relatively successful, most voluntary programs fail to produce inclusionary units (Brunick, Goldberg, & Levine, 2003; California Coalition for Rural Housing & Non-Profit Housing Association of Northern California, 2004, 2007; Mallach, 1984; Philip B. Herr & Associates, 2000). The incentives offered in voluntary jurisdictions are rarely sufficient

to motivate developers to build the number of inclusionary units that are produced under the mandatory programs (Mallach, 1984; Kautz, 2002)

The program should be structured so that there is uniformity and consistency in application.

For various reasons, including the legal defensibility of the ordinance or program, many authors agree that an inclusionary housing policy should be structured to both ensure and exhibit uniformity and consistency in the application of the mandate. Recent appellate court decisions in the state affirmed the power of local jurisdictions to enact such policies, while at the same time directing that the policies avoid arbitrary or ad hoc applications of the mandate which can represent a “taking” or “exaction” imposed on the developer (See *Home Builders Association v. City of Napa* [90 Cal.App.4th 188]; California Affordable Housing Law Project of the Public Interest Law Project and Western Center on Law & Poverty, 2002; Kautz, 2002; Lerman, 2006).

Other reasons cited include better feasibility of developing inclusionary units under a uniform mandates program in the face of neighbor opposition and competition from desirable exclusive communities (Triangle J Council of Governments, 2003).

Incentives to offset developer costs to construct the affordable unit should be provided.

There appears to be nearly unanimous support for developer incentives among those researching and writing on inclusionary housing. Incentives offset some of the added cost of constructing inclusionary units and, where significant enough, dispel much of the argument regarding the cost shift of affordable housing provision to developers (Kautz, 2002; Porter, 2004).

By far the most widely promoted and used incentive is the density bonus (California Coalition for Rural Housing & Non-Profit Housing Associates of Northern California, 2004). Where land values are high, by increasing the allowable density on projects that include inclusionary housing, the developer can potentially recoup much of the value difference between his inclusionary units and their potential market-rate price (Mallach, 1984; Porter, 2004; Rosen, 2004).

Density bonuses and other incentives such as fast-track permitting and reduced parking requirements require no additional expenditure of public funds (Kautz, 2002).

Enforcement of continued affordability is essential to long-term program success.

A frequently cited problem faced by communities with and without inclusionary housing programs is the retention of the affordable housing for later generations of residents (Brown, 2001; Marshall & Kautz, 2006; California Coalition for Rural Housing & Non-Profit Housing Associates of Northern California, 2004). Enforcement of

continued affordability is essential to the long-term success of any affordable housing program. Cities can help ensure continued affordability, write Marshall and Kautz (2006), by creating recorded deed restrictions and affordability covenants that are recognizable red flags for lenders and title companies, by taking care to educate buyers of the restrictions, and by strengthening monitoring programs.

Difficult Policy Choices

As the following paragraphs demonstrate, the literature reflects wide theoretical agreement that, given certain restrictions further discussed below, program components providing developers flexible alternatives such as off-site construction, land dedication, and in-lieu fees increase project feasibility and, thus, the potential number of units produced under the programs. The percentages of units in each income category (income targets) that the jurisdiction requires the developer to provide also affect the production feasibility. However, the literature cautions jurisdictions implementing inclusionary housing programs to weigh decisions regarding flexible alternatives and income targeting very carefully in light of their potential affect on economic integration objectives.

Income targets

A jurisdiction formulating an inclusionary housing policy must decide how large a project must be to trigger inclusionary requirements, what percentage of their projects

developers will be required to construct or set aside for affordable housing (“developer set-asides”), and what levels of affordability those set-asides should serve. The policies typically categorize affordability levels as “very low income” (VLI), “low income” (LI) and “moderate income” (MI), based on percentages of the area’s median income.

Ideally, cities formulate developer set-aside requirements to meet the demand for affordable housing at the income levels where it is most lacking. However, to ensure that developers actually produce the housing, the percentages mandated in each category must also match up to what is feasible for developers to set aside as restricted affordable units. Developers and formulating jurisdictions perceive greater feasibility in moderate income units because there is a smaller price gap to be absorbed in the moderate income units (Calavita & Grimes, 1998). The highest production numbers come out of policies targeted closer to median income levels (Burchell & Galley, 2002). In 2004, Montgomery County, Maryland’s moderately priced dwelling unit program had produced more inclusionary units than any other local program in the nation (Calavita, 2004). The Institute For Local Self Government urges jurisdictions considering an inclusionary housing policy to recognize developer feasibility concerns when deciding upon income targets and suggests providing additional incentives (such as a reduction in the number of units) for building very-low units (Institute for Local Self Government, 2003). But, low-income housing advocates urge that, because the greatest unmet need is in the lowest income categories, consistency with the goals of inclusionary housing programs requires

targeting very low and low income households to the greatest possible extent (California Affordable Housing Law Project of the Public Interest Law Project and Western Center on Law and Poverty, 2002a). Jurisdictions face a difficult policy choice as they balance gains in potential production against serving those who typically need affordable housing the most.

Despite a 30-year history of inclusionary housing policy in California, and multiple surveys of inclusionary jurisdictions (e.g. Calavita & Grimes 1998; California Coalition for Rural Housing & Non-Profit Housing Associates of Northern California, 2004, 2007), research aimed at observing the differences in production levels and their associations with the income levels targeted by the developer set-asides is scarce.

In two recent surveys, researchers collected data on the inclusionary policies implemented in jurisdictions around the state, including income levels targeted and self-reported production data (California Coalition for Rural Housing & Non-Profit Housing Associates of Northern California, 2004, 2007). The survey published in 2007 found that, of the total reported production of inclusionary units for the period between 2000 and 2006¹, 21% were affordable to moderate income households, 47% were affordable to low income households, and 25% were affordable to very low income households (ibid). In 2004, the researchers found that a higher percentage of the most productive jurisdictions targeted low and very low income households than the other, less productive jurisdictions and concluded that deeper income targeting may not by itself discourage

production. While demonstrating that high production *can* accompany deeper income targeting, the study does not attempt to explain the relationship between income levels and production.

Observed Policy Trends in Income Targeting

In 1997, Calavita, Grimes, and Mallach (1997) observed that the emphasis in the state had been on moderate income buyers, noting that pressure from advocates for lower income groups was largely absent from the policy making environment. Adopting jurisdictions preferred policies that targeted moderate income homeowners to those targeting low income renters. Inclusionary housing production in California now may be shifting toward lower income earners, according to the 2007 statewide survey cited above. The California Coalition for Rural Housing & Non-Profit Housing Associates of Northern California (2007) observed that newer inclusionary housing policies are producing more rental housing and more housing for lower income earners than policies implemented prior to 2000.

Alternatives to on-site construction

The above surveys show that many of the inclusionary policies implemented in California's cities and counties contain provisions for alternatives to on-site construction of the affordable units (California Coalition for Rural Housing & Non-Profit Housing

Associates of Northern California, 2004, 2007). Common alternatives include an option to develop the affordable units off site, an option to dedicate land (on or off-site for the production of the affordable units by a non-profit developer or a public agency), or an option to pay an in-lieu fee which will typically go into a trust fund dedicated for affordable housing construction (ibid). The 2004 statewide survey found that 67% of the inclusionary housing policies offer an off-site alternative, 81% have an in-lieu fee alternative, and 43% have a land dedication alternative (California Coalition for Rural Housing & Non-Profit Housing Associates of Northern California, 2004).

The literature often cites increased developer feasibility as one advantage of providing the alternatives (Binger, 2003; California Coalition for Rural Housing & Non-Profit Housing Association of Northern California, 2004). Off-site alternatives may facilitate higher unit concentrations than the market-rate development site can feasibly accommodate (Institute for Local Self Government, 2003). Local officials can design alternatives to give developers an incentive to produce more low income units by exercising the option of producing off-site at a higher set-aside, a lower income target, or both (ibid).

However, analysts strongly caution jurisdictions to weigh the alternatives carefully, in light of the effect of separating the construction or future construction from the market-rate development project. When affordable unit construction is not included in the market-rate development, the “inclusionary” or integration goal of the policy is at

risk. The Institute for Local Self Government's (2003) treatment of the integration questions raised by the alternatives deserves reprinting here:

[L]ocal agencies should not rely too heavily on such alternatives. Inclusionary programs may have exclusionary effects in cases when Developers are routinely permitted to develop off-site (and the off-site locations are concentrated in one area), or when a single Developer locates all of the Inclusionary Units in one area of the project. In extreme cases, such practices may be discriminatory. Local land use actions that deny individuals or groups of individuals the enjoyment of residence, landownership, tenancy or any other land use because of the intended occupancy by persons or families of low-, moderate or middle-income are unlawful. *See* Cal. Gov't Code § 65008(a). Any allowance of Off-Site Units should keep this prohibition in mind (p. 136).

So, there appear to be strong theoretical and practical legal reasons for jurisdictions formulating and implementing inclusionary housing policies to acknowledge and balance the potential trade-offs between the two primary objectives of the programs, the *production* of the affordable housing and *integration* of the affordable housing.

Observed Policy Trends in Alternatives to On-site Construction

The recent surveys (California Coalition for Rural Housing & Non-Profit Housing Associates of Northern California, 2004, 2007) discussed above identified trends in policy formulation, including allowances of certain alternatives to on-site construction. The California Coalition for Rural Housing recently posted the results of the surveys on its web site allowing researchers to view general characteristics of each of the adopting jurisdiction's inclusionary housing policies.

The same authors reported the results of a 2006 survey on the production of the state's inclusionary jurisdictions. Though the survey sought and reportedly obtained data

broken down into categories of produced on site, off-site, partnership, other (excluding in-lieu units, which were reported elsewhere), the authors did not reveal the individual jurisdiction's reported results by these categories, reporting instead using categories of "inclusionary development units produced 1999-2006" and "in-lieu-fee units produced 1999-2006" (p. 41).

Without providing the data and analysis, the authors report finding that the top producing jurisdictions offered several alternatives to on-site construction, most commonly in-lieu fees. Moreover, the authors found, the overall numbers reported by the top-producers included a lower percentage of units constructed on-site than the average of all jurisdictions reporting (a 46% average for top producers compared to 58% reported overall), lending some support for the view that higher production and the allowances of alternatives to on-site construction are related.

However, the finding falls short of evidencing a correlation between the alternatives and production levels. Jurisdictions not included in the top producers also offer such alternatives. To analyze the relationship properly, observers must compare the overall production in jurisdictions allowing the alternatives to jurisdictions not allowing them, a seemingly impossible task considering the alternatives' widespread use and the many variations within and among the policies and alternatives implemented throughout the state.

Influences on the Policy Forms

The design and adoption of the widely varying inclusionary housing policies seen in jurisdictions across the state today took place within dynamic and powerful political contexts that influenced their ultimate form. Calavita and Grimes (1998) describe the changing context of California jurisdictions' early adoption of inclusionary housing policies in the 1970s into the late 1990s. The authors attribute the evolution of cost offsets and flexibility to pressure from the development industry and to the California Department of Housing and Community Development's (HCD) changing stance on inclusionary housing policies, one which went from endorsing a model inclusionary housing ordinance to one in which, during the economic recession of the early and mid 1990s, the agency blamed inclusionary housing policies and other "overregulation" for constraining development and causing high housing prices. To address HCD and developer concerns² regarding the potential constraint on development, an increasing number of jurisdictions included in their policies cost offsets such as density bonuses, reduced requirements, and flexible alternatives such as off-site development and in-lieu fees (ibid).

Since the economic expansion of the 1990s, HCD has taken a more neutral stance (Calavita, 2004), cautioning jurisdictions considering inclusionary housing policies to "analyze mandatory inclusionary policies as potential governmental constraints on housing production ...[and] evaluate whether sufficient regulatory and financial

incentives are offered to facilitate compliance with the requirements" (HCD letter to Building Industry Association, 2005). The Institute for Local Self Government (2003) recommends that jurisdictions address HCD's constraint concerns by setting out clear standards and procedures that demonstrate how the inclusionary housing policies will lead to more affordable housing in the community.

Numerous observers discuss additional direction provided by a 2001 state appellate court decision in *Home Builders Association v. City of Napa* [90 Cal.App.4th 188], which solidified local jurisdictions' power to require developers to provide affordable housing in conjunction with their market-rate developments (e.g. Kautz, 2002; Institute for Local Self Government, 2003). Kautz's (2002) review of the *Napa* decision and its supporting legal precedent suggests that jurisdictions design their inclusionary requirements either as an exaction or as a land use control. If the jurisdiction offers in lieu fees or small incentives, the ordinance may be viewed as an exaction and it should thus be supported by a nexus study. However, offering substantial incentives like a density bonus negates the effect of the exaction and the vulnerability of the ordinance. An ordinance with no in-lieu fees or incentives is defensible under the jurisdiction's land-use authority (Kautz, 2002).

The influence of the decision seems to go beyond its finding of the constitutionality of the mandatory developer set-asides contained in the Napa ordinance. Legal and policy analysts advise local jurisdictions to consider including in their

ordinances incentives, flexible alternatives, and waiver provisions approved by the *Napa* court (e.g. California Affordable Housing Law Project of the Public Interest Law Project and Western Center on Law & Poverty, 2002a, 2002b; Institute for Local Self Government, 2003). The Institute for Local Self Government also advises jurisdictions to consider engaging developers early in the policy formulation process, reiterating that the *Napa* court noted that the local government had engaged in a consensus process in developing the ordinance.

So, the inclusionary housing policies proliferating throughout the state today are taking their form in a policy-making environment characterized by periods of intense concern over a shortage of affordable housing, by persistent pressure from the building industry and HCD to off-set or reduce the cost impacts of inclusionary ordinances on market-rate development, and by a recent legal precedent which confirmed local authority for enacting inclusionary housing policies at the same time it signaled the need for cost off-sets and flexibility in their implementation.

Contributions of this Study

The current policy making environment seemingly reinforces the perception that alternatives to on-site construction of affordable units are necessary for program success, which jurisdictions and analysts persistently measure by production. Some literature

aimed at guiding policy acknowledges that such alternatives may work to frustrate the integration goal of inclusionary housing programs.

Given that the two primary objectives of inclusionary housing programs are to produce affordable housing and to integrate affordable housing, and given the popularity of alternatives which further the first goal at the expense of the second, surprisingly little research explores how jurisdictions implementing inclusionary housing policies actually manage this conflict.

Each jurisdiction pursues its affordable housing objectives within a particular development environment that affects the feasibility of producing and integrating the affordable units. It is unlikely that there is one “right” production/integration balance appropriate to all development environments. Therefore, an understanding of the challenges jurisdictions face in balancing their own production and integration objectives necessarily includes consideration of their development environments.

Review of the literature revealed no attempts to understand the management of the policy conflict experienced by the jurisdictions implementing the alternative policies or to understand its local context. This study is a first step towards filling that void. The research set out to accomplish two objectives: to understand how jurisdictions are working to balance the affordable housing production and economic integration objectives of their inclusionary housing programs, and, secondarily, to understand how

jurisdictions' policy treatments of that balance differ to accommodate their development environments.

Chapter 3 METHODOLOGY

This study examines the policies, practices and development environments of four California cities with inclusionary housing programs. I chose a comparative case study approach as the most appropriate research strategy to answer questions that delve into the cities' experiences with balancing their production and integration objectives within varying development environments. While local development environments are considered, the primary units of analysis are the cities' inclusionary programs.

Guiding Research Questions

These questions guided the research and analysis of the cities' inclusionary housing programs:

- What policy alternatives to on-site construction are the cities employing, and why are they employing them?
- Policy alternatives to on-site construction may make the production of affordable housing more feasible, but may frustrate economic integration objectives. How are the cities addressing that conflict in the implementation of their inclusionary housing programs?
- To what extent do the cities' treatments of the balance between affordable housing production and economic integration vary within different development environments?

Data Sources

I collected data from the inclusionary housing program documents, the housing elements, and implementing staff officials of four California cities: Davis, Dublin, Pleasanton, and Sacramento. These cities represent a purposive sample chosen based upon their inclusionary housing production data reported by The California Coalition for Rural Housing & Non-Profit Housing Association of Northern California (2007). According to the report, all had relatively high production success³. Because the literature regards the use of in-lieu fees as having less integrative potential than on-site construction, I chose two cities producing a substantial proportion of their units with in-lieu fees for comparison to two cities that built little or no in-lieu fee units. Dublin and Pleasanton, both located in California's Bay Area, produced 50% or more of their inclusionary units out of in-lieu fees, while Sacramento and Davis, both in the Sacramento Area, had minimal in-lieu fee production (0% and 2.6%, respectively) (ibid).

Because no single data source can address the full scope of the research questions, the research relies on data from multiple sources. The use of multiple sources also allows triangulation to reduce the chance of error and strengthen reliability (Gray, 2004).

First, I collected data from the cities' official documents setting forth the inclusionary housing programs. Each of the cities studied codify the requirements of the programs in local ordinances. These ordinances vary in detail, but reveal the size of the

projects subject to the ordinance, the set-aside percentages required, the income levels served, the alternatives the cities employ, and, to some degree, the cities' discretionary authority over their application.

For further explanation of the application and implementation of the cities' inclusionary housing programs, I also reviewed and analyzed documents provided by the cities to guide developers or staff in project planning under the ordinances.

During the course of the research, the need to narrow the scope of the analysis of the cities' development environments became obvious. Therefore, I assumed recent and potential growth and growth management measures to satisfactorily represent the cities' local development environments for this study's contextual and comparative purposes. The cities' growth statistics came from the California State Department of Finance. I reviewed the housing elements of the cities' general plans for growth constraints, land available for residential development, and residential unit potential under the cities' general plans. Additional information regarding specific controversies regarding growth and affordable housing issues came from online news periodicals covering the cities studied.

Finally, I collected data through structured interviews with city staff overseeing the implementation of the inclusionary housing programs. The programs' policies and practices are, to a large degree, carried out at the staff level. Although city council members are the ultimate decision makers with regard to changes in the ordinances and

on special project approvals or waivers, I anticipated that the staff overseeing the program's implementation would have the most knowledge regarding the evolution and application of the policies and program practices, as well as the environment in which they are implemented.

The literature's guidance regarding the most common alternatives to on-site construction and their potential impact on integration objectives helped to form a framework for semi-structured interviews with the city staff overseeing the implementation of the inclusionary housing programs. I structured the interview instrument primarily toward discovering the official's perspective regarding challenges to the production of affordable housing within the city's development environment, how the policies and implementation practices of inclusionary program address those challenges, and how the city works to meet its integration objectives while also allowing alternatives to make producing the inclusionary units more feasible. The interview instrument is provided in the appendices (Appendix A).

I took a cross-sectional approach in collecting the data regarding current inclusionary policies, practices, and the development environments of the cities. However, as I anticipated, the interviews and online periodicals revealed some historical context regarding the evolution of the policies and the environments in which they have taken form.

Analytical Method

The primary focus of the research and analysis is on the policy forms, the alternatives offered, and the reasons behind their use. This focus requires a deeper analysis of the ordinances and practices, one that extends beyond a survey of the requirements and alternatives the cities offer. Project exemptions, conditions and limitations imposed, and discretionary authority reflect production and integration objectives and influence the programs' success on these objectives. These program details appear in Chapter Four's tables for comparison and followed by qualitative discussion.

Chapter Four FINDINGS AND ANALYSIS

My analysis begins with a comparison of the cities' development environments. Thereafter, I examine the cities' inclusionary housing ordinances and their use of alternatives to on-site construction. I also consider practices in the development plan review process that seek to further production feasibility or guard economic integration objectives. I discuss the reported advantages of the alternatives, common elements to production success, disincentives to economic integration, and accommodation of the development environments. The chapter closes with an example from one city, Sacramento, of the difficulty of balancing integration and production objectives in inclusionary housing programs.

The Cities' Development Environments

The cities implement their inclusionary housing programs within a larger, city-wide context. The complexity and diversity of the inclusionary housing policies in the state reflect the diverse policy-making and development environments of the cities implementing them. Therefore, an overview of those environments is helpful to beginning an analysis of the cities' inclusionary housing policies and their efforts to balance their production and integration objectives. To narrow the scope of the analysis, I assumed recent and potential growth and growth management measures to satisfactorily

represent the cities' local policy-making and development environments for this study's contextual and comparative purposes.

Table 1: City Development Environments

	Population	Growth 4/2000 to 1/2007	Estimated potential housing units ⁴ (Date reported)	Growth Management Policies
Sacramento	467,343	14.8%	27,841 (2003)	None identified
Davis	64,938	7.7%	2,325 (2004)	- Annual permit allocations (<i>multi-family & affordable housing exempts</i>) - Growth Boundary
Dublin	43,630	45.3%	8,924 (2003)	None identified
Pleasanton	68,755	8%	2,457 (2003)	- Annual permit allocations (<i>may override to meet Regional Housing Needs</i>) - Total housing unit cap - Growth Boundary

Reference: I obtained population and growth figures from the California State Department of Finance, and the estimated potential units and growth management policy information from the cities' Housing Elements and interviews with city officials.

As Table 1 shows, Sacramento is nearly seven times as large as the next largest city, Pleasanton. The city is comprised of smaller communities with diverse housing needs and goals. Much older than the others, only Sacramento has blighted areas having such concentrations of low-income housing that additional low-income housing stock in these areas might compound existing problems. Because it seeks to provide affordable opportunities in the newest and redeveloped areas, its inclusionary housing program applies only to development projects within its new growth areas and a future rail yards redevelopment project (City of Sacramento Mixed Income Ordinance, 2004).

Growth Environments

The growth experienced by the cities over the period between April of 2000 and January of 2007 varies significantly. Dublin's rapid expansion contrasts sharply with that of Davis and Pleasanton, which both have stringent growth management policies. Sacramento's growth of 14.8% most closely matches that of the state for the period, 11.2% (growth figures obtained from California State Department of Finance).

Davis and Pleasanton also reported relatively few potential units to be constructed, indicating limited growth and development opportunities in the cities, particularly in comparison with the numbers reported by Sacramento and Dublin.

Strict policies that limit the number of building permits the cities issue per year control the pace of development in Davis and Pleasanton. Appendix B provides further details of the growth constraints under which these cities operate.

Both cities' housing elements argue that their ordinances have override or exemption provisions for affordable housing⁵. They further argue that because their permit allocation processes give priority to projects with over a certain percentage of affordable units, the programs encourage the development of affordable housing. Opinion varies over the degree to which growth management policies limit the production and availability of affordable housing (for example, see Fischel, 1990, and Nelson, Pendall, Dawkins, & Knapp, 2004).⁶

The Inclusionary Housing Ordinances

Basic Elements of the Ordinances

This section examines basic elements of the cities' inclusionary housing ordinances to lay a foundation for understanding the cities' management of their production and integration objectives. These elements include the project size to which the ordinance applies, the percentage of the project the city requires developers to set aside for affordable units, and the income levels specified in the inclusionary obligation. Each element affects the potential production of inclusionary units and the overall development project feasibility under the program.

Table 2: Basic Elements of the Cities' Inclusionary Housing Ordinances

	Project Size	Percentage of set aside	Income Levels Specified*
Sacramento	10 or more units	15%	10% VLI, 5% LI - Standard Obligation 15% LI – Single-family unit developments of 5 acres or less <i>if all of the units are for sale and are constructed on-site.</i> 5% VLI, 10% LI – Condominium projects of 200 or fewer units <i>if all of the units are for sale and are constructed on-site.</i>
Davis	5 or more units Middle Income Ordinance: 26 or more units	25% for units offered for sale & multi-family projects under 20 units 35% for multi-family rentals of 20+ units 10% -20%	25% MOD for ownership units produced on-site 10% VLI, 15% LI for 5-19 unit multi-family rentals 10% VLI, 25% LI for 20+ unit multi-family rentals 10%-20% for a range of middle incomes (earning 120%-180% of Yolo County's median income)
Dublin	20 or more units	12.5%	3.75% VLI, 2.5%, 6.25% MOD
Pleasanton	15 or more units	15%	VL, LI & MOD, percentages allocated to income categories are subject to city approval.

* All of the policies define the income levels as: Very low income households (VLI) earn 50% or less of the area's median income; Low income households (LI) earn between 50% and 80% of the area's median income; Moderate income households (MOD) earn between 80% & 120% of the area's median income.

There is wide variation between the cities in the project size threshold and percentage required to be set aside for affordable units

As Table 2 reveals, the sizes of the projects to which the ordinances apply vary from between projects of five or more units in Davis to projects of twenty or more in Dublin. Davis and Dublin also represent opposing ends of the percentage set-aside range.

The 25%-35% set-aside required in Davis is more than is required in most jurisdictions, which most commonly require a 10% set-aside (California Rural Housing Coalition & Non-Profit Housing Association of Northern California, 2004). Further, Davis recently adopted a middle-income ordinance which mandates that developers of over 25 single family residences for sale also set aside 10%-20% (determined by project size) of the total units constructed with prices affordable to a range of middle-income households earning between 120% and 180% of the area median income for Yolo County. So, the total obligation for large single family developments in Davis reaches as high as 45% (25% set aside for moderate income households and 20% set aside for middle-income households).

Sacramento and Davis require the deepest affordability.

Mandating 10% set-asides for very low income units distinguishes both Sacramento's and Davis' ordinances from most other inclusionary housing programs, including the cities studied, the majority targeting only low and moderate income earners (ibid). Because the gap is largest between market-rate housing and the ability of very-low income households to pay for that housing, units in this category are the least feasible to produce without public subsidies or other concessions in unit design, location, and tenure. I discuss the effects of these concessions on integration objectives below.

All cities offer density bonuses.

Though various other incentives are also offered, the density bonus is the most meaningful offset cities typically offer because it allows developers to recoup some of the cost of constructing or setting aside land for the inclusionary units by achieving higher densities on their projects. State law now mandates that cities offer density bonuses for the construction of affordable units. All of the cities refer to the density bonus as an incentive they will provide or consider.

Alternatives to On-site Construction Offered

This section examines the cities' allowances of alternatives to the standard on-site construction obligations required under inclusionary housing policies and the conditions and limitations of their use. The alternatives considered here, typically offered to make meeting the inclusionary obligation more feasible for developers, are off-site construction, land dedication, and in-lieu fees. Each of the cities studied includes at least two of these alternatives in their ordinances; however, conditions limiting their use vary.

Table 3: Alternatives to On-site Construction Allowed by the Cities

	Off-site Construction Conditions for allowance	Land Dedication Conditions for allowance	In-lieu Fees Conditions for allowance
Sacramento	YES - For exclusively single-family projects only. - Site must be within new growth area and the same Community Plan Area as the market-rate project. - Requires a showing of more suitable site conditions based upon “residential planning criteria” and subsidy required.	YES - Subject to approval from Planning Director and the Sacramento Regional Housing Authority (SHRA)	NO
Davis*	NO	MANDATED: By project size - 76 to 200 for sale units <i>must</i> dedicate land - Over 200 for sale units ½ on-site ½ land dedication OFFERED for 20 or more multi-family rental units	YES - Limited to projects of 6 to 50 units built in the city’s core area.
Dublin	YES - Requires showing of on-site construction’s infeasibility or impracticality	YES	YES - Limited to up to 40% of the inclusionary obligation
Pleasanton	YES - Requires a showing that it will not result in significant concentration of affordable units in one neighborhood	YES	YES, BUT... - City Council has not approved any development proposals subject to the ordinance that propose payment of in-lieu fees

* In Davis, developers of 6-75 owned units outside of the city’s core area and multi-family rental projects of 5-19 units must build their units on-site.

The off-site construction alternative is offered in three of the four cities studied

As Table 3 shows, the off-site alternative, offered in all of the cities except Davis, is popular. However, the cities allowing the alternative impose some degree of regulation

on its use and conduct a discretionary review prior to its approval. Sacramento's requirement that the off-site location be in the same new growth and community plan area reflects the city's integration objective of ensuring that the new market-rate developments include their share of affordable housing opportunities.

In each of the cities allowing the off-site alternative, the ordinances describe the showings required for its approval broadly enough to leave substantial discretion with the reviewing officials. Conditions for allowance of the off-site alternative may be strictly or liberally construed, subject to the political will of the officials.

Sacramento's and Dublin's requirements reveal attention toward production feasibility; Sacramento requires a showing of the more suitable site conditions of the off-site location, and Dublin requires a showing of the infeasibility or impracticality of on-site construction.

In contrast, Pleasanton's condition for allowance of the off-site alternative attends to its integration objectives, the ordinance requiring a showing that building the inclusionary units on the off-site location will not result in the concentration of affordable housing in that neighborhood.

Land dedication is included in each of the cities' ordinances, but is not widely used in practice.

Each of the cities' ordinances includes the land dedication alternative. Approval requires a showing that the site is suitable to satisfy the inclusionary obligation, that the land is feasible to develop, zoned appropriately, and with infrastructure in place.

A unique feature of the City of Davis' ordinance is that it *mandates* land dedication for larger projects of units for sale. As the interview with the Davis official revealed, land dedication is not a concession to make meeting the inclusionary obligation more feasible to developers, but is rather a means to ensure a supply of land available for affordable housing projects facilitated by the city.

In the other cities, developers are not using the land dedication option, according to the interview responses. The Pleasanton and Dublin officials attributed its lack of use to the high cost of land in their cities.

The in-lieu fee alternative is limited by ordinance or in practice

The allowance of in-lieu fees is either limited or disallowed by the ordinances or in practice. Pleasanton has collected a "lower income housing fee" as a condition of its permit process since the 1970s⁷. The Pleasanton official explained that while developers of small projects exempt from the ordinance still pay a lower income housing fee, the adoption of the ordinance in 2000 actually signified the City's aggressive stance on

obtaining units rather than collecting fees; in practice, the City discourages the payment of in-lieu in the negotiation of the development agreement.

Sacramento and Pleasanton refer to concentration concerns in their ordinances; but the policy treatments contrast sharply.

Pleasanton's ordinance requires developers to demonstrate that use of the off-site alternative will not result in the significant concentration of affordable units. According to the official interviewed, the city prioritizes a mix of incomes over producing more units targeted at low income households and has forgone low-income financing available for low-income projects to achieve that mix.

Sacramento's ordinance discourages but does not prohibit concentration of the inclusionary units, whether built on or off site, requiring that the units be dispersed "to the maximum extent feasible" (City of Sacramento Mixed Income Housing Ordinance, 2004). Though it provides that multi-family projects of eight or more units with 50% or more of their units for very low and low income households cannot be located adjacent to another project with those characteristics, that condition may be waived by the Planning Director if financing or land use designations require it (ibid). In practice, the City has made concessions resulting in higher concentrations of affordable units to obtain low-income financing and to build multi-family units for very low income households.

Sacramento's ordinance also states that several developers may request to build their inclusionary units on the same project site. The City of Dublin has also allowed developers to combine their inclusionary obligations, though such practice is not specifically permitted in the ordinance. These policies and practices will likely result in higher concentrations of affordable housing units than would occur if the units were built on-site.

Tenure Requirements

Along with alternatives to on-site construction, tenure requirements (whether the units will be rentals or for sale) may affect the feasibility of producing inclusionary units. Allowing shifts in tenure between the market-rate development and the inclusionary housing produced can defeat economic integration objectives when the allowance results in fewer inclusionary ownership opportunities and the clustering of affordable housing in multi-family rental complexes. Davis is the only city disallowing developers of ownership units from meeting their obligation by building rental units (though the program contemplates that the affordable housing built on dedicated land by the non-profits will be rentals).

The other ordinances do not specify any restrictions on the tenure or type of inclusionary units produced under the policies; Sacramento's ordinance specifically contemplates that developers of single-family detached housing for sale may satisfy their

requirement by building multi-family housing for rental. As further discussed below, combined with the availability of large multi-family zoned parcels, Sacramento's type and tenure flexibility has affected the dispersal and diversity of the affordable units built under the policy.

Program Implementation

The Affordable Housing Plan Review Process

In each of the cities, the approving bodies review development proposals and project plans, which depict the inclusionary units to be produced or provide specific details on the land to be dedicated. Because it is in the plan review process that alternatives are considered and concessions are made to make projects more feasible, the perspectives of the city officials overseeing the process are especially valuable in understanding how the cities balance their economic integration objectives with production feasibility. Each city official reported using the review process to look at both the production and integration components of the projects, to ensure that the inclusionary obligation is satisfactorily met, and to review the location and blending of the units.

Officials in Sacramento, Dublin, and Pleasanton all reported working closely with market-rate developers in the plan review process to explore creative options for making production of the inclusionary units more feasible. Sacramento and Dublin have allowed combining projects or clustering units for better project feasibility, or to obtain developer

finance opportunities available for the production of low and very low income units. In contrast, because Pleasanton prefers mixed income development to concentrations of lower income units, its review ensures that the development plan offers a range of opportunities.

In Davis, the city's review appears not to be a process for considering alternatives, but a process to ensure compliance. The city's official explained that the review ensures that the affordable units blend in and are scattered throughout market-rate developments and that the land dedicated can accommodate the inclusionary units, using the City's set density assumptions, on contiguous and developable sites. Neighbors and the City expect the inclusionary units to blend into the market-rate development. So, the review considers structure design and disallows substantial departures in design and exteriors. Creative applications of this requirement have led to duplex affordable units next to large market-rate homes in order to mimic the scale on the streetscape. Resultant of the consistency in the application of the ordinance, the official says, developers know what to expect and design their projects accordingly.

Reported Advantages of the Alternatives to On-site Construction

Off-site construction and land dedication help achieve higher densities and deeper income targeting

The Sacramento and Pleasanton officials reported that off-site projects allow higher densities of the inclusionary units. Further, officials from Sacramento and Davis both pointed to the ability to achieve deeper income targeting as the key advantage to their use of the alternative. Sacramento allows off-site construction so that developments without multi-family zoned parcels can satisfy their very low income obligation on an off-site multi-family parcel. Through its land dedication policy, Davis ensures that a supply of land exists for the city, in partnership with non-profit developers, to target those groups that are most difficult for market-rate developers to serve – households with the lowest incomes and special needs.

Funds from in-lieu fees can be leveraged to obtain additional affordable housing financing opportunities

According to the official interviewed, Dublin's in-lieu fees provide necessary funds for both developers and purchasers of the affordable units. The city leverages in-lieu funds to procure additional funding and loans to finance affordable housing projects. The financial assistance made possible by the in-lieu fee fund is a complementary program component.

Though Davis currently permits in-lieu fees on relatively few projects, and Pleasanton collects “low income housing fees” under an ordinance separate from its inclusionary zoning ordinance, officials from both cities also reported using the funds created by the fees to assist non-profit affordable housing developers with financing affordable housing projects. In Davis, non-profit developers build affordable projects on land dedicated by the market-rate builders.

Common Elements of Production Success

All of the officials interviewed cited similar reasons that they believed were essential to the production successes of their inclusionary housing programs. First and foremost, they said, was the political will of city officials. All officials stressed the importance of commitment and support from the city council. The Dublin interviewee also gave credit to the city’s mayor who made the inclusion of affordable housing in the city a priority.

Regardless of whether the funds came out of in-lieu fees collected, all of the cities leveraged their financing ability to assist affordable housing developers.

All of the cities are either partnering with affordable housing developers or using the inclusionary obligation and financial assistance incentives to build partnerships between affordable housing builders and market-rate builders, making building inclusionary units for low or very low income households more feasible.

Both Sacramento and Dublin also acknowledged advantages coming from a robust housing market and expanses of developable land in the cities. The Sacramento official noted that larger scale developments such as those built in its North Natomas Community can more feasibly produce the inclusionary units required by the ordinance.

Disincentives to Economic Integration

Public financing restrictions discourage the creation of ownership units and mixed income developments.

Responses from several of the officials interviewed, and Sacramento's "Assessment of the City of Sacramento Mixed Income Housing Ordinance" prepared by the Sacramento Housing & Redevelopment Agency (2007), revealed the role of public financing in the concentrations of inclusionary units in multi-family rental complexes. Most state and federal funding sources restrict the financial assistance they provide to rental projects and to projects housing only low and very low income households. These restrictions provide disincentives for providing ownership opportunities for lower income households or for creating mixed-income developments.

Clustered units are easier to manage and monitor

Sacramento and Davis officials reported that clustered inclusionary units are easier to manage and monitor, particularly when the complexes are run by non-profit

groups, which have more experience and expertise with the needs of lower income communities. The Sacramento official explained that services and monitoring provided by non-profit developments or required by public financing of 100% low-income projects can offset the negative effects expected out of the clustering of the affordable units.

Balancing Production and Integration in Varying Growth Environments

The wide use of alternatives to on-site construction among the cities hinder efforts to differentiate their use in a slow growing, highly controlled development environment, in which one would expect production to be less feasible (such as Davis' and Pleasanton's), from their use in a robust development environment (such as Dublin's and Sacramento's). All of the cities studied employ at least two alternatives to on-site construction that result in less dispersal of the inclusionary units than would result from the standard inclusionary obligation.

However, the examination did reveal differences in the conditions under which the cities allow the off-site location alternative. In the cities with highly controlled development environments, the ordinances either disallow the off-site location alternative, as in Davis, or allow it only where it would not result in concentrations of affordable housing, as in Pleasanton, suggesting an emphasis on integration objectives in both cities. In the cities with robust, less constrained development environments,

feasibility and financing concerns brought forth in the discretionary review process may override concentration restrictions.

Further, the interviews revealed that the residents in Davis and Pleasanton demanded high quality exteriors that blend with the market-rate units and strongly opposed inclusionary unit concentrations; both cities reported meeting these demands, thus raising the cost of the inclusionary units, though furthering economic integration objectives.

The Challenge of Deep Income Targeting

Deep income targeting presents the greatest production and integration challenges.

The greatest challenge to economic integration objectives emerging from analysis of the cities' experiences with their inclusionary housing policies is how to make it feasible to produce *and* integrate housing for very low income households. The cities' production data reveals that the vast majority of the units for very low income households produced out of the inclusionary housing programs are rental units in multi-family complexes.

As discussed in Chapter Two, by providing very low income households with housing opportunities that allow them to access community benefits and employment opportunities, some degree of economic integration is achieved. The experiences in

Sacramento discussed below attest to the difficulty of achieving finer degrees of integration for this income group.

Sacramento's Experience

Sacramento is exceptionally ambitious in requiring a 10% set-aside for very low income households and a 5% set-aside for low-income households. While, the city has produced or approved over 1,500 inclusionary units under the program [Sacramento Housing & Redevelopment Agency (SHRA), 2007], the majority of the inclusionary units are concentrated in multi-family rental complexes in Sacramento's North Natomas community, where most of the City's recent development has occurred. According to SHRA's assessment of the city's ordinance (ibid), over 80% of the inclusionary units produced and approved in North Natomas are rental units. Of the new units in rental complexes built within North Natomas' Planned Unit Developments, 67% are affordable (ibid).

The concentration of affordable housing in these complexes came out of an intersection of policies seeking to make the production of very low income units more feasible for developers with the availability of large multi-family zoned parcels in the North Natomas community.

The gap between the cost to construct the units and the amount that very low income households can afford is smallest in multi-family rental units, explained one

Sacramento official. Thus, Sacramento's ordinance contemplates multi-family units for very low income households, allowing smaller developments or developments that have no multi-family zoned land to satisfy their obligations by building multi-family units off-site, and allowing multiple developers to build their inclusionary units on a single site.

Still, of the smaller projects eligible for the alternative, only 30% exercised their off-site option (ibid). One Sacramento official pointed out that most of the multi-family complexes built out of the ordinance were, in fact, "on-site." Large single family development projects in North Natomas also contained parcels ranging from between seven and ten acres in size zoned for multi-family housing, allowing the largest developments to meet their inclusionary obligations by building all of the affordable units as multi-family rental apartments "on-site." These large Planned Unit Developments produced 97% of their inclusionary units as rental units (ibid).

Thus, the off-site allowance does not appear to be responsible for the concentration of very low and low income apartments in North Natomas. Rather, with the availability of the multi-family zoned land and the option to build a different type and tenure to satisfy the obligation, the largest developers made rational choices that resulted in less integrated land use patterns.

Recall that only small single-family developments on five acres or less have the option of building on-site ownership units to obtain relief from the deepest income targeting. Larger developments do not have a mandate or an incentive to build on-site

ownership units. To encourage the development of ownership units, Sacramento officials may consider raising the income levels targeted for those units (ibid).

Sacramento's experience underscores the dilemma facing cities formulating and implementing inclusionary housing policies to reach their affordable housing production and economic integration objectives. The community's very low income residents are almost certainly better off than they were with fewer, older housing opportunities outside of the new development area. Providing housing choice for lower income households advances economic integration, albeit to a coarser degree than contemplated by traditional, scattered-site requirements.

What degree of economic integration is right for a community, and how feasible it is to produce the units to achieve that degree of integration, are difficult questions that cities must periodically ask of their inclusionary housing programs.

Chapter 5 CONCLUSION

The inclusionary housing policies rapidly spreading across California have taken form in a policy-making environment that reinforces the perception that alternatives to on-site construction are necessary for program success. Analysts consistently measure program success by the number of affordable units produced under the policies, though the economic integration of affordable housing is also a primary benefit argued in support of inclusionary housing programs.

The cities studied all employ at least two of the alternatives to on-site construction found by the statewide surveys to be popular among most jurisdictions. Analysis of the cities' policies and review processes revealed both similarities and differences in attempts to balance the programs' production and integration objectives. All of the cities used their discretionary review authority to ensure that projects met the cities' production and integration objectives, looking at the numbers of units produced, the income levels served and the location and blending of the inclusionary units. Differences in policy application were most apparent in the limitations imposed on the alternatives, in the conditions under which use of the alternatives were allowed, and in the concessions made in the development application review process.

While the study found that the two cities with highly controlled development environments emphasized the blending of inclusionary units with market-rate development and more strictly guarded against the concentration of affordable units on

off-site locations, these practices may be more suggestive of the cities' overall control over development than they are of protection of integration objectives. Supporting the former suggestion is Davis' requirement that larger developments dedicate land to the city rather than incorporating the inclusionary units in their own projects.

The largest differences found in the cities' management of conflicting production and integration objectives were associated with policies and practices that achieved deeper levels of affordability. Pleasanton's prioritization of an income mix over deeper levels of affordability sits in contrast with the priorities and practices of the other cities studied, particularly Sacramento and Davis, the cities seeking the deepest affordability in their inclusionary policies.

Serving very low income and special needs households emerged as posing the greatest challenge cities face in balancing the production and integration objectives of their programs. To maximize the benefits achievable under these market dependent policies, cities implementing inclusionary housing programs must recognize the practical limitations that the market imposes on their policy objectives. Those limitations are most pronounced in attempts to encourage market-rate development to produce housing restricted to the lowest income groups.

To make serving this group more feasible, cities relax concentration restrictions, affecting the geographic scale or degree of integration achieved by the programs (to use the terms of Downs, 1973 and Mallach, 1984). Recall that Sacramento's off-site

alternative anticipates that developers without multi-family zoned land may need to satisfy their very-low income obligation on an off-site multi-family zoned parcel, and that Davis mandates land dedication to meet its very low income and special needs production goals on sites adjacent to market-rate projects. Sacramento and Dublin both allow higher concentrations of very low and low income units where necessary for project feasibility and public financing opportunities. Thus, the geographic integration of affordable housing gives way to providing for those most in need of it.

Nonetheless, if serious feasibility restraints are present, providing clustered housing to very low income households is arguably preferable to providing them none. To recall Downs (1973) and Mallach (1984), any provision of affordable housing that increases housing choice and access to community benefits achieves a degree of integration. Further, when the inclusionary units are adjacent to the market-rate development (as is required in Davis) or are within the same new development area (as is required in Sacramento and practiced in Dublin) the objectives of a moderate degree of integration are achieved: residents from varying income levels share in localized resources such as schools, parks, and retail centers.

Given recent survey findings that inclusionary housing programs are increasingly serving very low and low income households (California Coalition for Rural Housing & Non-Profit Housing Association of Northern California, 2007), it is likely that many

cities are facing similar challenges and policy choices regarding their integration objectives.

Suggestions for Further Research

While there is perhaps no one degree of integration or single set of policies appropriate to all cities, further research may help to better inform the policy choices of cities attempting to balance the production and integration objectives of their inclusionary housing programs. Much more remains to be known about the individual and community outcomes of degrees of economic integration sought by local housing policies. Further, the facilitation of partnerships with non-profit developers, identified by the cities as an important program component improving the feasibility of building for the lowest income groups, deserves more exploration.⁸ Finally, policy analysts should examine and consider potential changes to current public financing restrictions, which the cities identified as discouraging mixed income development.

Final Thoughts

The cities' policies and experiences demonstrate the reality and complexity of balancing potentially conflicting affordable housing production and integration objectives on the ground. The programs seeking to serve the lowest income groups experience the greatest difficulty in balancing their production and integration objectives. The success

of an inclusionary housing program depends heavily upon addressing the feasibility concerns of market-rate developers, even if addressing those concerns means compromising economic integration objectives to some degree. Inclusionary cities and counties, housing advocates, and developers will be better prepared to work through conflicting policy objectives if they maintain, as Downs (1973) advises, a clear understanding of the benefits sought by the policies and the degrees of integration associated with those benefits. For very low income households, those benefits may include sharing in localized resources they cannot otherwise access. The cities' experiences suggest that, if officials and advocates seek to maximize the overall benefits for very low income households served by inclusionary housing programs, they may need to prioritize the production of very low income units in new development areas over the fine degree of integration contemplated by standard inclusionary obligations.

APPENDICES

APPENDIX A
INTERVIEW OUTLINE

Name	Title
City	Date

Logistics

Program adopted, last updated:

Internal policies, practice guides:

Production numbers (or alternative source):

Where can I find a breakdown of on-site, off-site, and in-lieu units?

Were the in-lieu units all off-site or built on portions of MR development projects dedicated by developers?

Percentage of in-lieu units built on dedicated land:

Production feasibility

The city has a comparatively high production rate - Briefly describe what you attribute high production to:

City's advantages/disadvantages for overall production feasibility:

What are the development limitations of onsite production in the city?

Alternatives

What does the City consider the advantages of lieu / off-site / land dedication option (see policy) to be?

Alternative production

What do you attribute high/low percentage of in-lieu/off-site units to?

Identify integration goals

Community accommodation (jobs-housing balance)

Deconcentrate some areas

Guard against income segregation in periods of growth

Full neighborhood integration

Policies and practices promoting integration goals

Policies to promote integration goals

Implementation practices that City uses to promote its integration goals:

Sustainability

Can you identify anything that the sustainability of program's production success depends upon?

Other:

Is there anything else you feel would be important regarding the balance of production and integration?

APPENDIX B

THE GROWTH MANAGEMENT POLICIES OF DAVIS AND PLEASANTON

The City of Davis

The City of Davis has been operating under a “Phased Allocation system” limiting the number of building permits it may issue since 1975. As a result of voter initiatives in 1999 and 2000, new development on open space and agricultural lands requires voter approval. While both exempt affordable housing needed to satisfy fair share requirements, and the Phased Allocation system exempts multi-family projects and small urban infill projects, developers, lenders, and realtors have complained that they have led to restrained competition and increased housing costs (City of Davis Housing Element, 2004). The city did acknowledge that its “agricultural mitigation policies reflect the public policy tension between affordable housing and agricultural preservation” while arguing that the “city has shown that it can be successful in protecting open space and farmland while meeting fair share housing allocation.” (ibid)

The City of Pleasanton

The City of Pleasanton’s General Plan allows no more than 750 units per year (City of Pleasanton Housing Element) The city also has a housing cap of 29,000 units,

imposed by voter initiative in 1996 (Pleasanton Weekly, December 1, 2006, City seeks to dismiss affordable housing lawsuit) as well as an urban growth boundary.

Pleasanton has sustained two lawsuits that reveal the tension between growth management controls and affordable housing. According to the city official interviewed, its inclusionary housing ordinance resulted from a lawsuit over the development of 500 acres of land. Voter approval of the development agreement, which set aside 15% of the units for affordable housing resolved the controversy. The official noted that though the project created affordable units, the agreement resulted in low densities (581 units on 500 acres) due to residents' demands for parks and open space.

NOTES

¹ Fifty-four percent of the jurisdictions in California with inclusionary housing programs responded to the survey.

² Housing is the State's second largest industry and accounts for approximately 10% of all economic activity in California (California Department of Housing and Community Development, n.d.)

³ According to the report, the cities produced at least 50 affordable units per for each year it had an active inclusionary program. In all cities but Sacramento, which limits the application of its ordinance to new development areas, the inclusionary production represented at least 10% of the total housing built during the period studied.

⁴ Reporting on land available for residential construction was not sufficiently consistent to make meaningful comparisons. Potential numbers of units to be constructed may better reflect the development environments experienced by officials and builders by also capturing the density limitations imposed by the General Plans. For example, Pleasanton's housing element showed a significant number of undeveloped large parcels; however, much of its vacant acreage have low density zoning designations and the city reports that it is near build out under its general plan because it is nearing its 29,000 unit cap imposed by voter initiative. A simple reporting of acreages would not capture the limitations on the development of those acreages.

⁵ In 2006, Pleasanton was sued for failure to meet its low-income obligations by advocates emboldened by HCD's finding that the city's housing element was out of compliance; but, that lawsuit was dismissed by summary judgment in January of 2007 (Oakland Tribune 2-4-2007, Cities failing on low-cost housing).

⁶ For a review of research and arguments supporting both views, see Downs, A. [Ed.] (2004). *Growth Management and Affordable Housing: Do they Conflict?* Washington D.C.: Brookings Institution Press.

⁷ Many of the city's affordable units were built out of the "lower income housing fees."

⁸ For a detailed discussion of potential partnership opportunities in inclusionary housing programs and the benefits of those opportunities, see Sanders, A. & Glaudwell, C. (2004).

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