



## INCLUSIONARY ZONING

### ISSUE

Many jurisdictions are under pressure from the State and the public to meet affordable housing Regional Housing Needs Assessment (RHNA) Numbers. This pressure is leading some to consider Inclusionary Zoning (IZ) ordinances. In its broadest sense, IZ requires housing developers to sell or rent a percentage of their units below market rate. Correspondingly, a city/county often provides incentives to the developer as a means of defraying the cost of generating the below-market units. Developers in some IZ jurisdictions also have the option of paying a fee rather than building the units themselves (“in-lieu of” fund).

### BACKGROUND

Nearly 200 cities in California have adopted IZ ordinances. Notwithstanding its widespread use in the State, the jury is still out as to whether inclusionary zoning policies actually work in practice. It is extremely difficult to adequately offset the IZ financial burden with equal benefits to homebuilders, and most cities have not. If a municipality imposes inclusionary zoning costs on housing that are not sufficiently offset, the rate of new homebuilding will ultimately decrease. Lack of new construction results in increased competition for homes, chokes off housing choices, inflates prices, and overall results in reduced affordability.

### EXISTING LAW

The traditional offsets offered by most cities are not enough to compensate for the increased costs of IZ. Expedited permitting operates better in theory than in practice, and modified development standards, height increases, and reduced parking requirements, while helpful, can lead to community NIMBY opposition, forcing even more delays and costs. A study conducted by San Jose State University in 2012 on IZ affirmed these findings and concluded that it made most housing less affordable. Per the study, cities with IZ ordinances ended up with 8% fewer homes and 9% higher prices between 1980-1990, and 7% fewer homes and 20% higher prices between 1990-2000.

These findings are consistent with a more recent analysis by Capitol Matrix Consulting in 2016 that estimated a 15% IZ requirement applied to all new housing built in California in 2015 would result in a

\$67,000 increase to the price of the remaining market-rate units. These higher home prices and rental rates will have two main effects. First, the increase in housing prices will cause 405,000 (or 3.5 percent) of households statewide to be priced out of the real estate market. Second, the higher rents will push about 125,000 additional households below the poverty threshold in California.

### SOLUTION

An IZ housing program should aim to increase the affordable housing supply without decreasing the supply of housing or increasing the overall cost of housing projects. Therefore, an IZ program should be a voluntary, incentive-based program and should:

- 1. Exempt for-sale housing**
- 2. Applicability** – Exempt projects that meet any of the following: submitted a complete development application; have a Development Agreement or are within a Specific Plan; or with affordable housing requirements included in the conditions of approval.
- 3. Threshold Number of Units** – Only apply to projects greater than 50 units. Small and medium size projects less than 50 units have a much more difficult time taking advantage of economies of scale and possible incentives.
- 4. Alternatives** – Offer flexible incentives to offset the increase, in affordable unit cost production, ensuring financial feasibility. This includes but is not limited to:
  - a. Off-site affordable housing production
  - b. An equitable and fair affordable housing in-lieu fee option
  - c. A menu of incentives to offset affordable unit construction costs such as increased buildable area, higher density options, reduction of open space, reduction or elimination of government fees, reduced outdoor or common space requirements, reduced setbacks, reduced or exempted parking requirements, increased Floor Area Ratio (FAR), etc.
- 5. Duration of Affordability** – It is important that the duration of affordability be set such that it helps address today’s affordability crisis while also incentivizing ongoing affordable housing development. Covenants should be removed after 15 years or when a tenant voluntarily vacates.