

Inclusionary Housing Program Discussion Redondo Beach Planning Commission

PRESENTED BY: KEYSER MARSTON ASSOCIATES, INC.

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What is Inclusionary Housing?

- Inclusionary housing programs impose affordable housing requirements on new development:
 - The primary focus is on the production of affordable units within market rate projects.
 - Options to production requirements must be provided.
- The following standards need to be established:
 - The required percentage of affordable units.
 - The threshold project size that triggers the obligation.
 - The depth of the affordability requirements.
- The standards are typically varied between ownership and rental projects.

Inclusionary Housing Program Considerations

- The legal standards are:
 - The requirement cannot be confiscatory;
 - The requirement cannot deprive a property owner or developer of a fair return on investment; and
 - The requirement cannot create a constraint to housing.
- The requirement should balance the interest of the property owners and developers against the public benefit created by the production of affordable units.

Parameters to be Established

- Target income and affordability standards.
- The minimum project size that will trigger the requirements.
- Alternative options to the requirement for on-site production of affordable housing units:
 - In-lieu fee option
 - Off-site production option or creation of a separate parcel
 - Rental units to fulfill ownership housing requirements
 - Land dedication
 - Acquisition and substantial rehabilitation of existing rental units.

City Council Policy Direction

Threshold Project Size

- Inclusionary requirements are imposed on all developments with 2+ units.
 - The KMA financial evaluation indicated that a full affordable unit could not be supported for projects with fewer than 10 units.
 - A sliding scale in-lieu fee payment schedule will be provided for project with 2-9 units.
- All projects with 10+ units:
 - Inclusionary units are required (no in-lieu fee payment is allowed with the exception of extreme hardship).
 - Fractional affordable unit requirement:
 - The original City Council direction was for a fractional obligation to be rounded down to the nearest whole number.
 - At their November 8, 2022 meeting, the City Council requested that an in-lieu fee schedule be created for fractional unit obligations generated by projects with 10+ units.

Standards for Market Rate “For Sale” Projects

- Inclusionary Obligation Fulfilled with For Sale Units on Site
 - Up to 19 Units 9% Moderate Income Required
 - 20+ Units 15% Moderate Income Required
 - One cumulative 55-year term covenant.
 - When covenant term expires, City recaptures the Affordability Gap associated with the first market rate sale plus a share of the equity appreciation.
 - Owner must occupy unit as principal place of residence.
 - Cannot lease any portion of unit except caregiver or extreme economic hardship.
- Inclusionary Obligation Fulfilled with Rental Units
 - On Site 15% Low Income Required Within project or on separate parcel on site
 - Off Site 15% Low Income Required Must be within 1/4 mile of site
 - Developer may choose to provide very low income units rather than low income units.
 - Covenant as long as residential use, no less than 75-year term.

Standards for Market Rate Apartment Projects

- Inclusionary Obligation Fulfilled with On Site Rental Units
 - Up to 19 Units 10% Moderate Income Required
 - 20+ Units 15% Moderate Income Required
 - Covenant as long as residential use, no less than 75-year term.
- Inclusionary Requirement Fulfilled with Off Site Rental Units
 - All Project Sizes 15% Low Income Required
 - Must be within 1/4 mile of Market Rate Project
 - Developer may choose to provide very low income units rather than low income units.
 - Covenant as long as residential use, no less than 75-year term.

Updated Standards: Market Rate Apartment Projects

	% Obligation	AMI (3 person hhld)
November 2021		
Moderate Income	9%	\$79,200
Low Income	7%	\$43,200
November 2022		
Moderate Income	8%	\$90,200
Modified Low Income	7%	\$65,600

- The primary factors that influenced the results are:
 - Increases in market rate rents; and
 - Increases in construction costs.

Section 65915 Density Bonus

- The following very low income inclusionary requirements can be supported when the project can efficiently use the Section 65915 density bonus:

For sale project that fulfills the affordable housing requirement with rental units	19%
Apartment project that includes the maximum allowable density bonus	21%

- AB 1505 and subsequent HCD guidance recommend limiting the requirement to 15% of the units to household earning no more than 80% of AMI (Modified Low Income).
- The affordability requirement is measured against the number of units allowed by the site's base zoning standards.

Standards for All Residential Projects

- Inclusionary units made available prior to or concurrent with the market rate units. Phased project, inclusionary units provided proportionally within each phase.
- Comparable in construction quality and exterior design.
- Interior Finishes:
 - For sale homes must include comparable interior finishes to the market rate units.
 - Rental Units must have interior finishes that meet the quality standards established by California Tax Credit Allocation Committee.
- Same rights to amenities, including parking.
- Reasonably dispersed throughout development, not clustered.
- Bedroom mix proportional to market rate. For rental, no more than 15% studio and at least 40% 2 or more bedrooms.
- Extreme economic hardship request must be heard by City Council.

Q&A

- Can a developer who plans to build a project within the scope of inclusionary housing request incentives and concessions, without applying for a Density Bonus?
 - A developer could request a density bonus concession through a density bonus application, but doesn't have to request additional density. Inclusionary housing without a density bonus application would not be eligible for concessions.
- Are the income requirements flexible from year to year based on national economic circumstances?
 - The income requirements are not automatically changed from year to year. It is recommended that the City look at the program periodically and update income requirements as needed.
- Does inclusionary housing increase housing unit density over a 10 year period or does it decrease housing units over a 10 year period?
 - The financial feasibility analysis demonstrates that inclusionary housing will not be a constraint to housing being developed. There is a likelihood that developers may use density bonus.

Q&A (Continued)

- If a developer uses density bonus and builds 15% low income housing he gets a 50% bonus so: 100 units with 15% low income = 150 units. Plus additional concessions. What would be different under inclusionary housing?
 - To get the 50% bonus would require 15% very low income. With the inclusionary ordinance, a municipality can have some additional requirements that are not available through just density bonus (i.e., unit mix, finishes, no clustering).
- What impact would SB-35 have on the number of units?
 - SB 35 does not apply in the coastal zone.
 - For inland, a project under SB 35 would have to have 50% low income units, and would have to use skilled and trained labor and prevailing wage to get “by right” approvals. Since this is such a high affordability requirement, inclusionary housing wouldn’t be the trigger for an applicant to apply for this.

Q&A (Continued)

- Is inclusionary housing forever? Can you get rid of it?
 - The City can rescind the inclusionary housing ordinances at any time. The units already created while the inclusionary housing ordinances are in effect would continue to have the deed restrictions, but any future developments would no longer have an inclusionary housing obligation if the City does away with the ordinances. Alternatively, the ordinances could be modified as needed.
- How do we get RHNA credit for the current allocation with the addition of the Inclusionary Housing numbers which will increase potential unit numbers across the city with eligible parcels?
 - Unfortunately, HCD does not allow municipalities to account for density bonus or inclusionary housing toward meeting RHNA capacity in their Housing Element. However, once a unit is developed and has the deed restriction, it would count toward affordable units built during that cycle.
- Does the developer have to show staff their fair return on investment?
 - The financial evaluation provides best estimates and shows that the program works. A developer would only have to provide their financials if applying for an extreme hardship waiver.

Q&A (Continued)

- Is moderate income obligation more attractive to developers?
 - For ownership projects, yes. This brings in a higher sales price than low income, so higher return on investment.
 - For rental, it depends—it may be worthwhile for a developer to apply a very low income standard in order to qualify for the state density bonus.
- Inclusionary housing can use the density bonus, where a developer could get up to a 50% increase in units, as well as concessions and bonuses. Can the developer ask for an unlimited number of incentives, but need to show financial benefit?
 - There is a statutorily-limited number of concessions that can be applied, based on the percentage and depth (low vs very low income) of affordability. As for waivers, technically, there could be an unlimited number of development standards waivers granted. However, the developer would have to show that the project can't be physically done without the waiver being granted. Although the descriptions of the various concessions in the Density Bonus Law do address that the concessions must reduce costs, many of these are industry-agreed cost savings and would not require project specific financial proof.

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Q&A (Continued)

- What is the Napa case?
 - There were a number of municipalities early on where they required that inclusionary units were in addition to density bonus units. The Napa case clarified that a project cannot be additive, so long as the more stringent affordability level is provided.
- Since 2 or more unit projects are subject to inclusionary housing, can those projects get the density bonus?
 - Density Bonus is only available to projects of 5 or more units.
- Can there be restrictions/oversight for not selling a unit and no short term rentals?
 - For sale units that are affordable will have a restriction that it must be sold for an affordable sales price if within the deed restricted timeframe. The ordinances also restrict the units so they cannot be subleased, whether short term or long term.

Q&A (Continued)

- Does HCD consider inclusionary housing as constraining housing?
 - The financial feasibility analysis was prepared to demonstrate that the inclusionary housing parameters will not be a constraint to housing being developed. Even though a higher percentage of affordable units may financially be feasible if density bonus is used, HCD guidance recommends not exceeding requiring 15% of the units as low income for inclusionary housing ordinances.
- What are the standards that can be applied with an inclusionary housing ordinance that would not otherwise be applicable to Density Bonus projects?
 - Comparable construction quality and exterior design required.
 - Comparable interior finished are required
 - Clustering is not allowed – units must be dispersed throughout the development
 - Bedroom mix required to be proportional to the market rate units.
- What additional options does the city have to increase low income housing production?
 - Cities may proactively develop their own affordable projects or provide sites to an affordable housing developer. The State just allowed for the creation of a South Bay Cities Housing Trust—the City could ongoingly participate in programs as they are created.

Recommendations

1. Open the public hearing, take testimony from staff and other interested parties, and deliberate;
 - a) Consider potential levels of affordability
 - b) Consider in-lieu payment for any fractional unit requirement on projects 10+ units in size
 - c) Discuss density as a result of adoption of ordinances
2. Close the public hearing; and
3. Adopt a resolution by title only subject to the findings contained therein:

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF REDONDO BEACH, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT ORDINANCES AMENDING TITLE 10, CHAPTER 2 ZONING AND LAND USE AND TITLE 10, CHAPTER 5 COASTAL LAND USE PLAN IMPLEMENTING ORDINANCE PERTAINING TO INCLUSIONARY HOUSING REGULATIONS AND RECOMMENDING THAT THE CITY COUNCIL ADOPT CATEGORICAL EXEMPTIONS FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FOR THE AMENDMENTS