Inclusionary Housing – Key considerations

Inclusionary housing policies have this fundamental objective: to create a permanent stock of affordable housing located in every new housing development, and thereby spread across the community.

In order to translate this objective into a productive program, the regulations must support a number of key principles:

- The obligation to provide affordable housing should be imposed on virtually all multi-unit private residential developments.
- The subject developments should be obliged to provide a prescribed and fixed percentage of the total units as affordable units.
- The affordable housing should be provided at a prescribed fixed "below market" price or rent. (This is a price or rent that substantially below the lowest market price or rent for the equivalent new unit.)
- The affordable units should be constructed on the same site as the market units and integrated with those units. Alternatives to the on-site construction should be allowed only when they better serve the affordable housing needs of the community.
- The affordability and occupancy of the affordable units should be controlled so that they remain affordable to, and are occupied by, eligible households over the long term, if not permanently.

The policy choices needing consideration include the following:

- whether the provision of affordable housing should be mandatory or voluntary;
- whether the regulations (or what regulations) should be negotiable or fixed; and
- whether the program should affect all developments or just those proceeding through a re-zoning or similar approval process.

Mandatory vs. Voluntary

In the mandatory, the developers have no choice but to provide the affordable housing if they wish to build anything on a particular site. If voluntary, developers have the right and choice to build under the as-of-right regulations, while not taking the incentives and providing the affordable housing. Voluntary means no guarantee of on-going affordable housing, which suggests a program must be mandatory to achieve affordable units.

Regulations: flexible or fixed?

- In order to be fair to the developers, the regulations should be set well in advance and then applied consistently.

- The regulations affecting the value of the affordable housing obligation should be fixed. That means that all subject developments should be required to provide at least the equivalent amount of affordable housing targeting the same income levels.
- The regulations, on the other hand, can permit some flexibility in how that obligation can be met and what concessions are provided. That means, depending upon particular site conditions, the regulations might allow different ways of providing that housing (such as, fees-in-lieu or off-site development) and offer different regulatory concessions (such as, increased density and height limits, and reduced parking standards).

But, even where some flexibility is allowed, it should be generally allowed only within defined parameters or rules that limit the discretion of the municipality and the developers, and so add some consistency and certainty.

As-of-Right vs Re-Zoned Developments

The inclusionary programs can be applied to two main categories of developments:

1) all residential developments including those proceeding under the existing as-of right provisions, or
2) only those residential developments obtaining additional development benefits through a re-zoning approval or similar process – such as, one granting a change of use to residential or more development density. AND:
    I. those built on lands owned by the municipality but sold for private residential development;
    II. those receiving financial assistance from the municipality; and
    III. those involved in a comprehensive development and approval process that establishes site-specific development standards and requirements.

Considerations for Rents

- In principle, the affordable housing should be provided at a prescribed and fixed "below-market" price or rent. A "below-market" price or rent is one that is substantially below the lowest market price or rent for the equivalent new unit.
- To achieve this, maximum household income ceilings should be used to determine eligibility for the units, and the "below-market" price or rent should be set at a level that corresponds with those income ceilings.
- These income ceilings will be needed to be differentiated by household size and/or type so that the households can be matched to suitably-size units. The ceilings, along with the prices and rents, will need to be adjusted at least annually.
- What complicates the matter is that these must be also linked by some suitable index or other method to the resale price (and the corresponding income ceiling) as part of the long-term affordability controls.

Compliance Alternatives

In principle, the affordable units should be constructed on the same site as the market units.

Under certain circumstances, consideration can be given to allowing other alternatives, such as the following: • payment of fees-in-lieu, • construction of affordable units on another site, • provision of developable land, and • provision of upgraded existing units.

Experience has shown that the vast majority of developers will seek to use these alternatives – and, especially, fees-in-lieu – whenever the value of those contributions are determined in a reasonably favourable way.

Affordability Controls

In principle, the on-going affordability and occupancy of the affordable units should be protected in order to ensure that they remain affordable to, and are occupied by, eligible households over the long term.

The following focuses on the controls necessary for affordable ownership units because this type of housing is relatively new and untried in Canada. In contrast, the corresponding controls on affordable rental are well-developed and understood in this country.

The main aspects that need to be addressed are the following: • legal agreements; • control period; • eligibility criteria; • resale price; and • occupancy controls.

Control period as long as possible. I.e. 20 years – rent control.

There is no doubt that the major aim of inclusionary program is to engender mix-development and to create affordable housing for the low income group. Inclusionary zoning's adaptability to local circumstances makes it a particular attractive policy tool. It can easily be tailored to accommodate specific policy goals, housing market condition, residents' preferences and variations in state or local regulatory/political environment.

Moreover, there are lots of variations in the details of inclusionary zoning from one city to another. These variations, thus makes it difficult to predict it effectiveness. Thus, individual city/ordinance should be considered on its own merit.

Though as earlier mentioned, inclusionary zoning is a generalized housing policy that do generate different effect on affordable housing but for it to be successful, there must be one form of incentive or the other to developers i.e. developers need to be encouraged. In almost all the ordinances and bye-laws perused, these incentives ranged from fee waiver, density bonus, reduced parking, reduction in processing time, access to government grants and subsidies and payment-in-lieu of providing affordable housing.

Sources: Richard Drdla Associates affordable housing consultants, A Guide to Developing an Inclusionary Housing Program, Acorn Institute Canada, 2010