Lifting Up What Works®

PolicyLink

Delivering on the Promise of Inclusionary Housing:

Best Practices in Administration and Monitoring

by Rick Jacobus

I. Delivering on the Promise of Inclusionary Housing

Inclusionary housing is a tool used by local jurisdictions throughout the country to increase the amount of affordable or workforce housing. Inclusionary housing programs (sometimes called inclusionary zoning) create a framework within which developers of market rate housing are either required or encouraged to develop some housing that is affordable to households that otherwise would not be able to afford to rent or purchase the housing being developed. Inclusionary housing has been growing in popularity throughout the country, especially in areas with high housing costs. Inclusionary housing has tremendous potential to contribute significantly to the nation's supply of affordable housing.

However, to deliver on that potential, inclusionary housing programs must be well run. In the past, some jurisdictions have adopted inclusionary housing ordinances with the expectation that market rate housing developers would then produce affordable housing with little involvement from the public sector. Experience has shown, however, that inclusionary housing programs, like any other housing program, require a certain level of ongoing administration and oversight in order to effectively produce and preserve affordable housing opportunities. When these administrative responsibilities come as a surprise, program managers often find it difficult to respond to developer needs and to track and monitor the affordable units that are produced. Failure to provide adequate staffing and systems for ongoing administration can result in loss of affordable units either directly through illegal sales, subletting, or foreclosure or indirectly by undermining public support for the inclusionary housing program.

There have been a small number of well publicized cases where understaffed local governments have literally lost track of affordable units after requiring developers to produce them. Beginning in the late 1970s the California Coastal Commission began requiring developers in coastal Orange County to make 25 to 35 percent of any new housing affordable to low- or moderate-income buyers. These state mandated units were entrusted to the Orange County Housing Authority for administrative oversight. However, the program provided no funding for monitoring and oversight and by the early 1980s the Housing Authority was responsible for over 800 such units. The workload became so burdensome that housing authority staff were unable to dedicate the time necessary to identify new buyers and began regularly releasing units from restrictions rather than exercise its option to purchase the units at an affordable price. By 1983 the Housing Authority had released 132 units from restrictions and only purchased 22 units. The Authority Board voted to terminate the program and release the remaining units. The state intervened and assigned responsibility to another agency, which experienced similar problems and released an additional 25 units. It was only when the state provided grant funding to a third administrative entity (nearly 20 years after the first units were sold) that monitoring and enforcement received real attention. By then, however, the damage was done and a judge ruled that many of

Written for PolicyLink by Rick Jacobus, Burlington Associates in Community Development
(www.burlingtonassociates.com)

the remaining deed restrictions were unenforceable because enforcement had been so mismanaged.[1]

In a more recent example, two county supervisors in Santa Barbara County, California, made headlines in 2006 when they called for the end of the county's 25-year-old inclusionary housing program after a program audit estimated that as many as a quarter of the county's 400 inclusionary homeowners were illegally using their homes for rental income, nine homes had been lost through foreclosure and several owners had taken out mortgages far in excess of their homes restricted value.[2] The county was able to restructure the program and eliminate many of the problems but the program remains understaffed with a single staff person responsible for coordinating new developments and monitoring a portfolio of nearly 500 existing units.

The administrative responsibilities can seem daunting when they have not been anticipated. However, there is no reason that proper administration has to be a burden on local government. Jurisdictions that have been administering inclusionary housing programs for decades have developed a number of successful approaches to staffing these programs and many have been able to identify scalable revenue sources that cover (or help cover) the cost of monitoring and administering inclusionary units even as the number of units in a program grows.

This paper outlines several of the most common tasks associated with ongoing administration of inclusionary housing programs and describes some of the common approaches to staffing and paying for implementation.

The administrative workload varies tremendously from one program to another based, largely, on the many program design choices that local governments make. While describing all of these choices is beyond the scope of this paper, the description of administrative roles necessarily provides some overview of the choices that have the greatest impact on the administrative workload.

II. Key Administrative Responsibilities

The specific requirements for ongoing administration of any particular inclusionary housing program will depend on the specific requirements and policy goals of the program. However, there are a number of common administrative requirements that many programs share. Some of the most significant requirements are described below:

For inclusionary homeownership projects:

1. Overseeing **production** of new affordable housing units
2. **Pricing** units so that they are affordable, initially and at resale
3. **Marketing** inclusionary housing opportunities to eligible residents
4. **Educating** potential buyers about ownership and program requirements
5. **Screening and selecting** buyers who meet eligibility standards
6. Ensuring that buyers have access to appropriate **financing**
7. **Monitoring** units to ensure owner occupancy and payment of taxes and insurance
8. Managing the process of **resale** from one owner to the next
9. **Enforcement** of requirements (as necessary)

Inclusionary rental projects generally require less intensive ongoing administration but will frequently include:

- Overseeing **production** of new affordable housing units
- **Pricing** (setting rents) so that they are affordable, initially and over time
- **Marketing** inclusionary housing opportunities to eligible residents
- **Monitoring** units to ensure owner occupancy and payment of taxes and insurance

1. Production

The design, placement, and timing of affordable units require especially careful attention during the development phase of inclusionary projects. While requiring that affordable units be identical to market rate units can be infeasible in luxury projects, program administrators must ensure that affordable units are comparable in external appearance and that the interior size, finish quality, and amenities are appropriate. One California developer notoriously offered affordable ownership units for sale without kitchen cabinets. Similarly, the economic impact of the inclusionary requirement will be less if the affordable units don't occupy the most desirable locations within a project (like those with the best views) but programs are sometimes careful to ensure that lower-income residents are not relegated to one, less desirable, portion of the overall site. Many jurisdictions also negotiate the timing of affordable units within a project's several phases. Developers who complete and sell market rate units before completing affordable units may have little or no incentive to ever build the affordable units. While the local inclusionary ordinance may set standards related to these issues, it is difficult for policymakers to foresee every reasonable accommodation that a developer may require. Even when the ordinance is clear, these and other issues require active involvement of program staff prior to and during development.

A joint report published in 2005 by the Nonprofit Housing Association of Northern California and the California Homebuilders Association cited flexibility in implementation as a key to success in inclusionary housing programs.[3] Flexibility means that, while the inclusionary housing/inclusionary zoning ordinance may spell out many specific requirements, local governments will nonetheless spend significant time supporting projects through the approval and development process and working closely with developers to ensure that they understand the requirements and implement them in appropriate ways. In many cases, staff will engage in detailed negotiations with developers related to the implementation of specific requirements or the application of discretionary local incentives such as fee waivers, density bonuses, or even investment of local affordable housing funds.

One common practice is to require developers to create an *affordable housing plan* that details how affordable units will be integrated into a project and how they will be controlled over time. The City of Salinas, for example, provides developers with sample plans for either ownership or rental projects. Each template includes a description of the project and a proposal describing how the developer will satisfy the city's inclusionary requirements including:

- The percentage of total housing units that will be affordable
- The mix of income levels that units will be affordable to
- The affordable rents or prices
- The unit sizes and number of bedrooms of affordable units
- A description of the comparability of affordable and market units in terms of size and amenities
- A map of unit locations within the project
- A schedule for completion and sale or leasing of the affordable units relative to market rate units
- A description of the mechanisms that will be used to preserve affordability of ownership units
- A plan for marketing the units and criteria to be used for selection of residents.

Developers in Salinas must submit these plans along with their first application for planning approval for any new residential project covered by the towns inclusionary ordinance. The affordable housing plan is then considered along with other project plans and approved by either the planning commission or city council depending on the project. Once the terms of this plan are approved, the key provisions are incorporated into an affordable housing agreement that is recorded against the property prior to subdivision of the property or approval of any building permits.

Polly Marshall and Barbara Kautz[4] argue that such a formal agreement makes it easier to later enforce detailed requirements related to timing, design, and location of affordable units than if these same requirements were simply listed as conditions of approval. And when developers subdivide larger parcels for sale to other developers, there is a risk that buyers may be unaware of affordable housing commitments that the master developer made. A recorded agreement ensures that all future buyers are legally notified of these requirements. Marshall and Kautz also suggest that these agreements authorize staff to work out details and make minor changes to the agreement without requiring approval from the planning commission or city council.

2. Pricing

Setting affordable rents and prices:

Inclusionary housing programs generally require developers to make units affordable to residents earning no more than some target percentage of median income. One program might, for example, require that 10 percent of total units be affordable to households earning less than 80 percent of median while another program might require 5 percent of units be affordable to households earning less than 80 percent and another 5 percent be affordable to households earning less than 120 percent. In order for developers to meet these requirements the program must provide detailed guidance on what counts as affordable. Generally, programs expect rents or sales prices that allow residents to pay no more than 30 percent or 35 percent of their monthly income for their housing costs but programs differ in which expenses they include in this calculation. Some programs provide developers with a formula for this calculation while others simply offer a schedule of affordable rents and affordable housing prices. For example, while it may be easier for a program manager to simply tell developers to include homeowner's insurance costs in their affordable sales price calculation, reasonable people might disagree about the appropriate estimate for insurance costs and the developer has a strong incentive to include the lowest possible estimate. By providing this estimate and performing the affordability calculation themselves, program managers can insure consistent and fair pricing.

Resale pricing: Most inclusionary homeownership programs establish mechanisms for preserving affordability of inclusionary units over time after the initial homebuyers sell. Before the first sale of a restricted unit, the program must establish a formula (the *resale formula*) that clearly spells out how equity will be shared. Then at the time of sale, the program manager must apply this formula and calculate either the maximum resale price or the repayment amount on a shared appreciation loan. There is great variety in these formulas but most are fairly simple to calculate, especially in comparison with the initial pricing formula. Some programs tie the resale price to a published index like the Consumer Price Index (CPI) or Area Median Income (AMI), which requires

the program manager to look up the relevant index and multiply the change in the index by the initial purchase price. Other formulas require a market appraisal of the home and compare this value to an initial appraised market value to determine the total appreciation that is then split according to the formula. While an appraisal can take a week or more to complete, the process of calculating the resale price is generally quite simple.

***Capital improvements*:** Most, though certainly not all shared equity homeownership programs offer homeowners who make significant capital improvements to their home some credit for the cost of those improvements at the time of resale. This generally means increasing the maximum resale price slightly above what would otherwise be the formula price. However this is easier said than done. Determining the appropriate value for capital improvements can become a significant administrative challenge. Some programs allow a credit for the full documented cost of any improvement. But when a unit is sold years after an improvement is made, full cost will generally greatly overstate the value of the improvement. For this reason, some programs impose a depreciation schedule that reduces the credit over time. The appropriate schedule is different for different types of improvements, necessitating a detailed policy or significant time negotiating value with each homeowner. Other programs require separate appraisal of improvements at the time of sale but this adds a significant expense and because appraisers can be inconsistent in the valuation of minor improvements this approach makes it difficult for homeowners to know whether they will be compensated for their investment. In addition, because large credits for improvements could push an affordable home out of reach of the target households, many programs take steps to prevent homeowners from "over improving" their units. This generally requires additional administrative work, either approving individual improvements in advance of construction or developing detailed policies that distinguish between luxury improvements and those that add to the use or life of the home.

3. Marketing

When affordable housing units are a scarce resource, communities place a high priority on ensuring that all eligible households have an equal opportunity to access the housing. Program managers ensure fair marketing either by educating and monitoring developers or by participating directly in the marketing of inclusionary units.

Rental: For the most part, owners of rental properties are able to rely on their existing property management companies to effectively market any affordable units.Nonetheless, some programs offer assistance to these companies to ensure fair access to affordable units. Fairfax County, Virginia's Affordable Dwelling Unit program, for example, relies on property owners to market affordable rental units but the county maintains standards for fair marketing and offers voluntary trainings for the leasing staff who market these units.

***Ownership*:** While some programs rely on sellers to find their own buyers, there are compelling reasons that centralized and professional marketing of affordable homes is important. Marketing below market rate homeownership opportunities presents some specialized challenges. When homes sell at affordable prices far below the local market price, it is generally not difficult to find willing buyers, even when there are strict resale price restrictions. When shared equity units are in such high demand, program managers, rightly, worry that homeowners or developers will sell to friends or relatives, unfairly denying other eligible households an opportunity to participate in the program. In some cases sellers may even be tempted to accept side payments from eager buyers. However, when affordable homes are priced only slightly below market, it can be more difficult to locate buyers. Homeowners selling their affordable homes may need help finding buyers and explaining the benefits of the program. For these reasons many programs take on significant responsibility for marketing of affordable homes.

Common tasks include:

- Performing general outreach to potential buyers on an ongoing basis
- Managing a waiting list or interest list of eligible applicants who understand the tradeoffs involved in affordable homeownership
- Marketing new development projects both to the existing waiting list and the general public
- Marketing individual units at the time of resale
- Educating the real estate community about the nature of the program and available units.

For new development projects with multiple affordable ownership units, it is common for a jurisdiction to require developers to draft affirmative marketing plans that outline the steps that will be taken to ensure that all eligible households in the area have an equal opportunity to apply for the units.

4. Home Buyer Education

There are two distinct types of homebuyer education that can be key to the success of inclusionary homeownership programs. Many programs provide (or arrange for provision of) general homebuyer education that covers basic household finance, the home buying process, credit repair, understanding mortgages and, in some cases, even basic home maintenance. The second type of buyer education is designed to ensure that homebuyers understand the specific terms and conditions of the program that they are buying into. Below market rate homeownership is still a new idea in most parts of the country and buyers generally don't come into the process with any understanding of the unique set of rights and responsibilities associated with their program. Many programs offer workshops that orient prospective buyers to the goals of the program and walk them through the key provisions of the program's legal documents. This training often takes the form of a one-to-two hour small group orientation session but it can also be delivered as a one-on-one meeting with buyers before they sign any legal documents. In addition to workshops many programs develop written material, sometimes in multiple languages, that clearly explain restrictions in simple terms.

This program specific buyer education is essential not only to ensure that buyers all know what they are buying but it can play an important role in later enforcement of any restrictions. The basic fairness of resale price restrictions rely on informed consent from homeowners. Individual households each evaluate the tradeoffs and decide whether the program makes sense for them. Later, if they complain that the resale formula is unfair, it is easy to point out their failure to complain at the time of purchase. However, if, as they purchased they truly didn't have the opportunity to ask questions and understand the formula (and other restrictions) it becomes harder to enforce those same restrictions. Elected officials and courts[5] have released homeowners from restrictions when, in spite of clear legal documents, owners were able to argue that they didn't understand what they were signing.

5. Screening/Selection

***Screening for eligibility*:** Every affordable housing program limits the pool of eligible applicants in some way. These limits are intended to ensure that scarce housing resources serve the intended beneficiaries. They may be created by the program itself or imposed by outside funding sources that are key to implementation of the program. Most programs have clear income limits. Households whose income exceeds those limits are not eligible to buy homes or rent apartments in the program. Some programs set different income limits for different units. Other common criteria include minimum age of the applicant, household size, and credit history. Homeownership programs also commonly consider level of non-housing debt, ability to qualify for a mortgage, and first time homebuyer status. Some programs also impose minimum income limits or limits on the buyer's housing cost burden (i.e., the percentage of their income that they can spend on their housing costs). Others impose asset limits to prevent households with high wealth but low incomes from occupying affordable units.

Regardless of the specific criteria, every program relies on someone to collect appropriate documentation from buyers, review that documentation and determine whether each applicant meets the eligibility requirements for the unit in question. Some programs require developers to collect and review this material, others require only that they collect it and forward it to the jurisdiction for review while other programs ask applicants to submit materials directly to the program administrator.

***Selection*:** In communities where affordable homeownership units are in high demand, programs often rely on lotteries or similar systems to select buyers from among the pool of eligible applicants. Coordinating a fair and transparent selection process reduces the burden of responding to inquiries and complaints and provides some measure of protection from fair housing lawsuits. Where there is less demand, lotteries may seem unnecessary. Often affordable units are sold to the first applicant who meets all the eligibility criteria. This can also be a fair process so long as the unit was marketed broadly to the full diversity of potential applicants.

In either case, however, it is important that the process for selection be fair and transparent. Even where programs rely on developers to manage selection, it remains a responsibility of the program to ensure that the process used for selection is consistent with fair housing goals and conducted in a fair manner.

6. Financing/Refinancing

***Limiting eligible financing products*:** Many inclusionary housing programs require that the program approve any loan product used for home purchase or refinancing. When programs impose resale price restrictions, this review is essential to ensure that buyers borrow no more than the maximum resale price. Many programs are also seeking to prevent buyers from being taken advantage of by predatory lenders. Some programs limit buyers to 30-year fixed rate loans in order to avoid the potential financial problems of adjustable rate mortgages. Whatever the program's financing limits, they must be developed thoughtfully in consultation with lenders, communicated to potential buyers and then someone must review loan documents prior to each sale or refinancing to ensure that they are consistent with the policy. This is not generally a time consuming process but it does require some experience to catch potential problems.

***Securing lender approval*:** At the same time, mortgage lenders who make loans to buyers of affordable homes have to understand the program's restrictions to ensure that their interests are adequately protected. Program managers must regularly work with local mortgage lenders to ensure that there is an adequate pool of potential lenders who are willing to finance price-restricted homes.

Once a program is approved by one or more lenders and these loan products are approved by the program, most buyers can use these loans without significant ongoing administrative work. However, when either the lenders or the inclusionary homeownership program change their rules, program managers must again spend time renegotiating agreements with program lenders.

7. Monitoring

Most inclusionary housing programs require that homeowners occupy their units as their primary residence. Many also require that owners maintain a certain level of homeowner's insurance, pay homeowner association fees, taxes, and other assessments on time. These requirements, which are essential to the mission of preserving the units as affordable housing, are only effective if they are accompanied by some level of ongoing monitoring.

An increasingly common practice is for program managers to contact each homeowner on an annual basis and request proof of owner occupancy. Contra Costa County, California, sends each of their 200 resale price restricted homeowners a letter annually reminding owners of restrictions relevant to their home. Homeowners are required to send back a form declaring under penalty of perjury that they are occupying their home, a copy of their homeowner's insurance policy, and a copy of a recent utility bill. County staff report that, while most owners respond in a timely manner, considerable staff time is spent collecting responses from a small number who fail to respond (including many who are in full compliance). In addition to these forms, county staff regularly review land records to ensure that no new liens have been recorded against restricted properties.

8. Resale Management

One of the most time consuming tasks of post purchase administration of homeownership units is managing resales to ensure that every home is transferred to another income-eligible household for no more than the formula-determined price. Some programs provide extensive marketing services at the time of resale (see section above on marketing) while others simply monitor the process to ensure that the sales conform with program rules. Every program must screen and certify eligibility of potential buyers and ensure that buyers are selected in a fair manor (see screening and selection above). Beyond marketing, selecting, and screening buyers, program managers must respond to homeowner's notices; maintain regular communication with homeowners, brokers, and title companies; coordinate and review home inspections and appraisals of the unit; and work with outgoing homeowners to determine any credits for improvements or deductions for damage and deferred maintenance. In many cases, minor (or more significant) repairs must be performed before units are ready for sale and administrators must either coordinate this work directly or encourage homeowners to complete the work. The program manager must calculate the limited resale price and provide clear documentation of the calculation to all parties. Administrators must also work with title companies to ensure that homes actually sell for no more than the appropriate price and that program legal documents are executed by the new buyers and properly recorded. Sharon Decico of the Bedminster Hills Housing Corporation in Bedminster, New Jersey, manages approximately 70 resales per year and reports that each takes approximately 20 hours of staff time. Kara Douglas of Contra Costa County,

California, estimates that each resale requires between 21 and 52 hours and costs the agency anywhere from $500 to $20,000 in fees to outside contractors (home inspectors, brokers, title, and escrow fees). Occasionally resales with unusual circumstances may require much more staff time.

Programs that are structured as shared appreciation loans, rather than resale price restrictions, may face fewer responsibilities at the time of sale. Managers of these programs, rather than calculating a resale price, calculate a loan payoff amount including the program's share of equity based on the market sale price of the home. While this process can be much quicker, it is important to note that loan funds recaptured in this way are generally segregated in a housing trust fund or other account and must eventually be reinvested in another comparable ownership opportunity. Finding and evaluating reinvestment opportunities and then identifying and selecting eligible buyers for the new units is comparable to the tasks associated with reselling a resale price restricted unit. In fact, a growing number of shared appreciation loan programs are incorporating an option to purchase the unit at market value. This option allows the program managers to choose to reinvest the public equity[6] in the same unit rather than search for another unit.

9. Enforcement

While most homeowners will use their units responsibly and sell them according to the rules of the program when they decide to move, some owners will inevitably attempt to take advantage of the program. Common problems for homeownership units are illegal subletting of assisted units, refinancing for more than the restricted resale price, sale of a unit for more than the affordable price, or sale to an ineligible buyer. In addition, homeowners who experience financial problems may default on their mortgage, forcing program managers to take action to either avoid foreclosure of the property by the mortgage lender or to preserve affordability after foreclosure. Enforcement issues are far less common with inclusionary rental housing, but program managers must be prepared to take steps to ensure continued compliance with affordable rent restrictions whenever rental properties are sold or refinanced.

The first, and most important step in enforcement actually takes place long before the first inclusionary units are developed. Preparing and properly executing strong legal documents that anticipate potential violations can dramatically reduce the likelihood that legal action will later prove necessary and can reduce the cost of later enforcement. Many communities are reluctant to invest in the development of quality legal documents but money saved initially may be lost many times over when problems arise later. Development of these legal documents is a complex and rapidly changing process and it is important to work with experienced attorneys not only in drafting affordable housing restrictions but enforcing those documents in court.

When things go well, staff spend little time on enforcement but one complex violation or foreclosure can consume significant staff and legal time for several months or longer. In order to effectively preserve affordability over the long term, programs need to plan for and budget staff time for occasional problems of this type. While there is no comprehensive data on how frequently enforcement actions are necessary, anecdotal evidence suggests that legal action may be a regular necessity even though it is relatively rare. In 2004, Palo Alto conducted a comprehensive evaluation of the status of its 179 restricted ownership units and found some kind of compliance problem with nearly 30 percent of the units.[7] Many of these problems were minor (i.e., unreported changes in family composition) but some were serious violations such as illegal subletting or second mortgages that exceeded the city's restricted resale price. Over the program's 33-year history, Palo Alto has experienced five situations where homeowners went into foreclosure after borrowing more than the restricted prices of their units. In each case, close staff attention and significant legal costs were necessary to preserve the affordability of the units. Recognizing that these extreme cases can be very expensive, Palo Alto decided to double the level of their day-to-day administrative and monitoring staff with the expectation that more regular monitoring would reduce the need for costly enforcement after the fact.

When the value of the public investment in a unit is relatively low, the costs of legal action may be greater than the benefit. But as the value of the public investment grows, it quickly becomes more cost effective to take action to protect the public subsidy even if that action is expensive. At the same time, the greater the difference between the restricted price and the market value of a property, the greater the incentive for homeowners to try to get around restrictions. For these reasons, communities where inclusionary units sell at prices far below market can expect greater enforcement costs than those where units sell for prices closer to market values.

Juliet Cox, a California attorney who is regularly called on to litigate enforcement actions for local inclusionary housing programs, suggests that policymakers consider money spent on enforcement as additional investment in the affordability of their housing. Sometimes, she suggests, it might be less expensive for jurisdictions to impose less stringent rules than to spend money regularly taking legal action against homeowners. "I would rather see that extra money go to the homeowners where it can do some good, than to lawyers." And clearly the more restrictive programs face more significant enforcement costs, though when public subsidy levels are high, even if occasional enforcement is expensive, the extra cost might not justify relaxing the rules for every unit.

III. Staffing Administration and Monitoring

There are a number of options for structuring the delivery of the services described above. No two programs are quite the same. However basic stewardship of inclusionary housing units can be accomplished through any combination of the following five strategies.

Program of local government: The local housing or planning department takes on ongoing responsibility for oversight and administration. Fairfax County, Virginia's inclusionary housing program, for example, has created 1,400 affordable homeownership and about 900 affordable rental units. The county's Redevelopment and Housing Authority employs the equivalent of three full-time staff provide post occupancy monitoring and support for the ownership units. These staff members provide training to developers, manage a waiting list, screen potential buyers, and coordinate lotteries. After homeowners purchase, the county staff annually verify occupancy, respond to refinance requests, and support owners in marketing units at resale. An additional staff person in a different division of the authority spends about half of their time monitoring the inclusionary rental units, verifying tenant eligibility, and providing training and support to the managers of these rental properties. A profile of Fairfax County's program is included in Appendix I.

Multi-jurisdiction collaboration: Several local jurisdictions work together to form a joint powers authority, nonprofit, or similar structure with which they each contract for ongoing stewardship of inclusionary units. In the late 1980s, the jurisdictions in Napa County, California, came together to create the Napa Valley Housing Authority under a joint powers agreement. The jurisdictions individually contracted with this authority to administer a range of housing programs including four local inclusionary housing programs. By combining all of their smaller programs under one agency they were able to hire dedicated staff and streamline administration. Shared staffing has also strengthened their programs because they are able to share regulatory documents and lessons learned. A profile of the Napa Valley Housing Authority is included in Appendix I.

Private company: Some local governments contract with realtors or other local companies to perform key ongoing oversight and administration functions on a fee for service basis. For example, Lafayette, Colorado, adopted an inclusionary housing ordinance in 2004 that has led to the creation of 70 homeownership units and 60 rental units. Because the small community has limited local government staff, the city identified a private contractor to oversee their inclusionary portfolio. The administrator manages an interest list, provides training to developers on marketing and selection, reviews applicant eligibility, monitors ongoing occupancy, and provides support and oversight when homeowners resell their homes.

Nonprofit housing agency: A local nonprofit housing organization plays an ongoing stewardship role either through a fee for service contract with local government or as a requirement for receiving project subsidy. For example, when the Town of Mammoth Lakes, California, began considering inclusionary housing in 2002, local policymakers considered creating a housing authority inside local government but ultimately decided that an independent nonprofit agency could be more effective. The town helped to create Mammoth Lakes Housing (MLH) a nonprofit that is partnering with private developers to create affordable units that meet the requirements of the town's affordable housing mitigation regulations, which apply to new commercial as well as residential development. Mammoth Lakes Housing has served as a joint venture partner (co-owner) in some but not all affordable rental developments and contracts with the town to perform long-term monitoring and support services for deed restricted ownership units created through the towns programs. And while MLH has no authority to approve a developer's affordable housing plan, their annual contract with the town requires the nonprofit to work with potential developers to create housing plans that will meet the town's needs. A detailed profile of Mammoth Lakes Housing is included in Appendix I.

Community land trust: A community land trust (CLT) is a special type of organization that holds title to land under affordable housing in order to play a permanent stewardship role monitoring and preserving affordability. For example, the Orange

Community Housing and Land Trust plays a key role in the administration of the inclusionary housing program for the Town of Chapel Hill, North Carolina. The town negotiates affordable housing requirements and encourages private developers to work with the land trust to produce their affordable units. The private developers build the units and sell them to the land trust at an affordable price. The land trust then takes on the responsibility for finding eligible buyers. The land trust sells the buyers the homes only, retaining ownership to the land. A 99-year ground lease gives buyers long-term control over the land but allows the land trust to ensure that the homes remain affordable. The market rate developers pay the land trust a marketing fee and homeowners pay a monthly ground rent that supports the organization's ongoing administration and monitoring costs. A detailed profile of the Orange Community Housing and Land Trust is included in Appendix I.

IV. Staffing Ongoing Administration

Every inclusionary housing program requires some level of ongoing staffing.[8] Table 1 shows the results of an informal survey of staffing for nine inclusionary housing programs. While the exact requirements are quite different depending on the specific roles that a given program plays in program implementation, it is clear that the greater the number of units monitored, the greater the staffing requirement. It is also clear that there are significant economies of scale. Smaller programs require significantly more staff per unit monitored. Palo Alto, California's 269 units are managed by a staff of approximately 1.25 (215 units per FTE) while Montgomery County, Maryland's 2,799 units require 6.5 FTE (430 units per FTE). Program managers consistently report that monitoring rental units is far less staff intensive than monitoring homeownership. In Fairfax County, Virginia, a half time staff person manages 900 rental units while oversight of 1,400 ownership units requires three full-time staff people (467 units per full time equivalent (FTE)). The New Jersey Housing and Mortgage Finance Agency's Housing Affordability Service has a staff of 10 to monitor 5,000 ownership units (500 units per FTE) while a single person oversees 1,000 rental units.

Many program managers report that their programs are significantly understaffed. For example Denver, Colorado, has a single staff person responsible for monitoring and supporting 700 inclusionary ownership units. City staff estimate that three full-time staff would be more appropriate if the program budget allowed. And at 700 units per FTE, Denver does in fact seem to be well above the norm. With three staff they would have 233 units per FTE, which would place them toward the low end of the range.

Based on the experience of this small sample of jurisdictions it seems that policymakers would be wise to plan for staffing of one full-time equivalent for every 150 to 400 homeownership units and one FTE for every 600 to 1,000 rental units.

Table 1: Number of units monitored per full time equivalent staff

Municipality	*Estimated Units Monitored*	Staffing	Est. Units Per FTE	Est. Ownership Units/FTE
Somerville, MA	41 ownership, 10 rental	6 staff work partial time on inclusionary housing	17.0	16.4
Fairfax County, VA	1,400 ownership, 900 rental	Roughly 3.5 FTE	657.1	466.7
Lafayette, CO	70 ownership, 60 rental in the pipeline	1 part time contractor + partial time from one city administrator	173.3	93.3
Boston, MA	600 total, tenure split unknown	4 FTEs	150.0	133.3
Palo Alto, CA	169 ownership, 100 rental	1 FTE on contract, city staff dedicate some time to resales	215.2	135.2
Denver, CO	700 ownership, no rental	1 FTE	700.0	700.00
Montgomery County, MD	1,976 ownership, 823 rental	About 6 FTEs for ownership, 1 part-time on inclusionary rental	430.6	329.3
Santa Barbara, CA	453 ownership, a few rental	1 FTE	475.0	453.0
West Sacramento, CA	80 ownership, 220 rental	9 department staff assist the program - amount of time unknown	75.0	26.7

V. Paying for Administration and Monitoring

One of the most pressing challenges that inclusionary housing programs face is funding administration. Inclusionary housing programs pay for ongoing administration with revenues from a wide range of different sources. Table 2 highlights some of the advantages and disadvantages of the more common sources. A surprising number of programs have been developed without adequate thought to the ongoing cost of administration. As a result many programs rely on local government's general budget or limited local affordable housing funds to pay for the ongoing administration and monitoring of inclusionary units.

For small programs this may be appropriate but, as the number of units in a program grows, the staffing needs can be expected to grow and the revenue for staffing needs to grow at the same pace if the program is going to succeed. This is especially true for programs that are expecting to preserve long-term affordability of ownership units. When affordability controls last for 50 years or longer, each year's new developments add permanently to the ongoing cost of administration. For this reason, a growing number of programs are developing fee structures that generate a revenue stream that will grow with the program.

Table 2: Common sources of program revenue

Source	Advantages	Disadvantages
Local Government General Funds	Regular and reliable	As program grows, growing admin budget must compete with other local needs
Permit Fees *Ex: many programs pay for the cost of negotiating and overseeing development of inclusionary units with funds generated through planning and zoning permit fees*	Developers of inclusionary units directly pay for the cost of monitoring and enforcing the program requirements	These fees can add significantly to the cost of development making it more difficult for developers to meet inclusionary requirements and earn appropriate profits
Local Housing Funds *Ex: Federal HOME or CDBG, Local housing trust funds, redevelopment funds, Inclusionary in lieu fees.*	Most programs allow funds to be spent for staffing and administration	Using these funds to administer previously produced units reduces funds available to create new affordable housing opportunities; available funding is not likely to grow as the program staffing needs grow
Sales/Resale Fees Ex: Some programs charge a fee of 1-4% of the sales price for each unit sold or resold through the program	Ties revenue to the most time consuming tasks, fee income will grow as the demand on staff time grows	This approach passes part of the cost of administration on to the homeowners, reducing their return when they sell
Application Fees Santa Barbara County, CA charges a $25 fee with every application for their affordable ownership units	Ties revenues to another time consuming task, reviewing applications for eligibility	This approach passes costs on to applicants who may never benefit from the program
Ongoing Administration Fees Ex: Salinas, CA charges owners of rental units $40-60 per year for monitoring. This is less common for ownership but Chicago charges deed restricted homeowners a fee of $25 per month	Provides a regular and dedicated source of revenue which grows along with the need.	These monthly fees add to resident's monthly housing costs and reduce their borrowing power which ultimately increases the subsidy necessary to make a unit affordable to a given family.
Ground Lease Fees Ex: Community Land Trusts regularly charge a monthly land rent to help defray administration and monitoring costs	Same as administration fees above	Same as administration fees above

The two primary sources of scalable revenue are resale/marketing fees and monthly administration fees. Programs that take on the lead role in marketing restricted units frequently charge sellers a fee between 1 percent and 4 percent of the sales price to cover administrative expenses. This fee is generally well below the 6 percent commission that owners would pay a private realtor for similar service. Even some programs that expect sellers to engage realtors will charge more modest administrative fees at resale. The state of New Jersey requires all jurisdictions to produce affordable housing units and has created uniform housing affordability controls to ensure that these units are kept affordable over time. The uniform controls require each jurisdiction to identify an administrative agent for their affordable units. Recognizing that administrative capacity was uneven across the state, New Jersey created the Housing Affordability Service (HAS), a quasi-public entity within the New Jersey Housing and Mortgage Finance Agency. The HAS serves as the default administrative agent for jurisdictions that don't identify a different agent and currently oversees 5,000 resale price restricted affordable homeownership units on behalf of 70 municipalities. The agency is funded through a variety of fees but, because most of their responsibilities relate to resale of affordable units, they receive much of their revenue from resale fees. HAS charges a fee of 3 percent of the affordable resale price when they are asked to coordinate marketing and 1.25 percent when they are only screening buyers and certifying that the seller has complied with the state's affirmative marketing requirements.

Agencies that monitor affordability of rental housing often charge monthly monitoring fees. For some reason these fees are less commonly applied to affordable homeownership units. The notable exception is community land trusts, which generally charge a monthly ground lease fee. While this fee is technically rent for the CLT's land, the fees are almost always set far below the comparable market rent and are used to offset some of the CLT's costs of administration and monitoring. These fees generally range from $25 to $100 for single-family homeownership units. This regular source of revenue, combined with other sources such as resale fees, can provide significant financial stability to the program. Thistle Community Housing in Boulder, Colorado, for example, reports that 32 percent of the cost of running their community land trust program is paid by ground lease fees. Although Thistle only charges an average lease fee of $30 per month, over $75,000 per year is generated by the 211 units of resale-restricted, owner-occupied housing currently under Thistle's stewardship.[9]

With the appropriate combination of fees, it is not unreasonable for a community to expect an inclusionary housing program to sustain itself primarily through dedicated revenue sources. However, setting these fees requires careful planning to ensure that revenues are sufficient given the specific demands on the staff and local market conditions. And, even with careful planning, communities should expect that time and experience may lead to adjustments in program fees.

V. Conclusion

Inclusionary housing is a promising strategy for creating much needed affordable housing opportunities. In a time of declining federal investment in affordable housing, inclusionary housing represents one of the few avenues available to local governments to expand their stock of affordable housing.

There is considerable debate about whether the cost of producing affordable units is passed on to market rate homeowners in the form of higher home prices, or to land owners in the form of lower land prices, or simply retained by developers in the form of lower profits. In many communities, local government incentives like density bonuses, fee waivers, or even direct affordable housing subsidies help greatly reduce the impact on the private market but one way or another, each affordable unit has a cost.

Therefore whenever an inclusionary affordable housing unit is sold or rented at a below market price, it is important to recognize that significant resources (both public and private) have been invested to make that unit affordable, resources that could have been put to other important uses. It would be unfair to the many parties who make this affordability possible not to treat these units as a scarce public resource and to take appropriate steps to preserve and protect these public assets.

Like every other public asset, inclusionary affordable housing units must be managed and monitored over time. These responsibilities should not be an afterthought. Ongoing active stewardship should be planed as a central part of every inclusionary housing program. While specific responsibilities will differ from place to place, every program will require staff to work with developers to produce affordable units and either coordinate or monitor marketing and screening efforts. Every program will require staff, on an ongoing basis, to monitor inclusionary units and, for ownership units, to support the refinancing and resales that will occasionally occur. Every program will eventually experience some enforcement challenge that will require significant staff time. And while most programs takes steps to try to minimize the staffing needs, there does not appear to be any way around some level of sustained staffing. The trend among more established programs appears to be in the direction of more (rather than less) active roles.

Rather than attempting to avoid the need for ongoing administration, programs should simply be designed from the start with the need for ongoing active stewardship in mind. Every program should plan for staffing (either direct or though a subcontractor) at a level that is appropriate to the specific tasks that the program has committed to perform and should allow for staffing levels to increase over time as the number of units in the program grows. The key to this scalability appears to be the mechanisms that are selected for funding ongoing program administration. To the extent practical, ongoing administrative costs should be paid with fees tied closely to the housing units themselves so that as the demand for staff time grows, the resources will grow at the same pace.

While the cost of properly administering and monitoring inclusionary housing programs can be surprising, there is no reason to see these costs as prohibitive. Relative to the resources being invested in creating inclusionary affordable housing, the cost of monitoring and sustaining that housing is very modest, even for the most intensive programs. This modest ongoing expense may be the key to preserving the value of that larger investment in the production of inclusionary affordable housing. Without ongoing active stewardship, inclusionary housing can provide only temporary relief from our housing crisis. But inclusionary housing has the potential to do so much more. Well staffed and adequately funded programs can offer economically integrated affordable housing for generations to come. And this long-term impact is essential if inclusionary housing is to truly deliver on its promise.

Appendix I: Program Profiles[10]

Fairfax County, Virginia, Affordable Dwelling Unit Program Administered by County Staff

Fairfax County, Virginia instituted an inclusionary zoning ordinance in 1989 that requires that developments with 50 units or more to provide 6.25 percent to 12.5 percent of units at prices that are affordable to households earning 70 percent or less of the Washington, DC area median income. The Affordable Dwelling Unit (ADU) program has created about 2,300 units so far, including 1,400 ownership units and about 900 rental units. These units are monitored and administered by the Fairfax County Redevelopment and Housing Authority. The term of affordability, protected by a covenant, ranges from 15 to 50 years as Fairfax has amended its ordinance over time to require longer terms of affordability.

The responsibility for marketing and leasing rental units lies with the property owners who provide monthly rent reports as well as new tenant income documentation to county staff for verification. The county supports owners of developments with inclusionary rental units by providing voluntary trainings to leasing staff. These trainings address the requirements of the program, the process of income verification, and necessary documentation. In addition, county staff provides support as needed to representatives of any rental project that includes ADU units. Administration of the rental portion of the ADU program is staffed by a single person who dedicates less than half of his time to this program. He reports that if the time and resources were available, the program would benefit from increased monitoring of the units.

The homeownership units in the ADU program are administered and monitored by the Homeownership and Relocation Branch. The administration of the 1,400 ADU ownership units requires roughly three full-time equivalent positions as well as a portion of the time of the branch manager. These staff market affordable units, manage a waiting list of eligible buyers, execute the random selection process, prepare relevant legal documents, and manage the sale of the home. While county staff verify the income eligibility of potential homebuyers prior to closing, the ADU program requires pre-approval for a mortgage from lenders. Fairfax County staff find that this requirement helps to limit the amount of staff time spent on income verification as lender information is usually accurate, although it must always be verified.

After the initial sale of the home, ADU staff monitor occupancy of units through annual mailings, although any follow up investigation that may be necessary would be undertaken by staff in the Zoning Department. ADU staff receives and approves refinancing requests, as well as notice of intent to sell. Staff support homeowners in resale of the home by providing the same services as those listed above for initial sale. ADU staff do not physically inspect the unit, but request that buyers get a certified home inspection prior to agreeing to purchase the unit. If there is damage to elements of the home specifically mentioned in the covenant, for example the heating system, then the seller is required to repair these elements before sale. To date the county has not experienced significant problems with inadequate maintenance of the homes. A larger problem has been owners who have refinanced their homes for more than the resale value with no means of paying off the debt. This has occurred when homeowners have refinanced without consent of the county and lenders have not been aware of the deed restrictions.

Fairfax County representatives believe that administering the rental and homeownership portions of the ADU program from separate departments works well. Managing the homeownership units is far more time consuming, particularly because resales, which average 2 percent per year, take so much time and the work cannot be planned for in advance. In general the ADU program has adequate staff to meet the responsibilities, but in times when there have been mass resales all at once, the ADU program receives assistance from other agency staff.

The cost of administering the ADU program is unknown because the branches which administer the program also have additional responsibilities. The county collects a resale fee of 1.5 percent of the sales price of the home, but these fees do not cover the full costs of administration. Additional funding is provided from the county's Homeownership Assistance Program.

Shared Administration of Affordable Housing Programs in Napa County, California

Housing Authority of the City of Napa (HACN) is a city agency that administers all of the affordable housing programs for the municipality. It also administers the vast majority of affordable housing programs of other municipalities in the county because of an arrangement stemming from the late 1980s. At that time, the jurisdictions in the County of Napa created the Napa Valley Housing Authority (NVHA) under a joint powers agreement. NVHA was initially be staffed by County of Napa employees but when the first director left, NVHA decided to contract with Housing Authority of the City of Napa to administer all affordable housing programs in the county. From 1996 to 2006 there was a single contract between NVHA and City of Napa Housing Authority. Service provided by HACN to Napa County and the Cities of American Canyon, St. Helena, Calistoga, and the Town of Yountville included:

- Assist with creation of housing policy and drafting the housing element for each jurisdiction
- Administering and monitoring restricted affordable units, rental and homeownership
- Monitoring and operating farm worker housing
- Administering affordable and first-time home buyer loan programs.

Currently, the City of Napa Housing Authority monitors and administers nearly 3,000 affordable units. Roughly 2,000 of these units are in the city's own portfolio, while the remainder come from various programs in the surrounding jurisdictions.

The primary programs for making homeownership affordable to lower-income households include:

- Shared equity loan program for downpayment assistance
- Short term loan program with recapture
- Resale-restricted units developed through inclusionary housing policies[11]

In addition, the city of Napa has started to include a purchase option on all of the units that are supported by the two loan programs. This provision is intended to help the city keep these units available for first-time buyers, although there will be no price restrictions on the units. Staff report that each of these affordable homeownership programs have their own little quirks that make monitoring and administration time consuming and challenging. Currently, there is 1.25 full-time equivalent (FTE) staff who monitor all of the homeownership units, which include about 200 resale restricted units; the balance are supported by the two loan programs. Staff indicate that 1.5 or 2 full time staff might be more appropriate given the level of these monitoring responsibilities because resales and refinancing requests in particular take a lot of staff time.

Even though staff are responsible for reinvesting the municipality's equity share from the loan programs and are not responsible for identifying new buyers for resale restricted units, it still seems that each resale restricted unit takes a bit more time to monitor than the loan programs. For resale restricted properties municipal representatives are not responsible for marketing and identifying buyers, but they do maintain a database of interested applicants and will try to send interested, qualified households to the sellers of resale restricted units. Nevertheless the process of calculating the resale price, verifying the income of potential homebuyers, and assessing continued owner occupancy are time consuming aspects. Additionally, the responsibility of responding to refinance requests, ensuring that homes are not over-financed, and dealing with the issues related to homeowners who were able to refinance their homes for more than the resale restricted price takes significant staff time.

HACN staff reported that they and the participating jurisdictions all benefited from having a single contract that resulted from the joint powers agreement. The administrators knew everything that everyone else was doing and could easily pull from that knowledge to improve programs for other jurisdictions. For example, administrators could use the regulatory documents from one city as a template for another city instead of having to expend resources for lawyers to draft new documents. There is an efficiency of scale that comes from having a central office administer all of the programs. Yet, while the concept of a joint powers agency for this purpose is good, this specific

agency and the resulting contracts may not have been structured in a sustainable fashion. The county of Napa is in the process of reestablishing a staffed housing agency. Ownership and management of all of the county's farm worker housing will transfer to this agency.[12] And the Napa Valley Housing Authority is dissolving, although the HACN intends to continue to administer the majority of affordable housing programs in the county. Local jurisdictions are now entering into contracts directly with the HACN to administer affordable housing programs.

The joint powers agency is dissolving because separate contracts with the two housing authorities cost more money than a single direct contract with HACN. The municipalities decided that there was no real benefit to paying the additional costs to have the joint powers agency. Although most of the responsibilities were contracted out, the NVHA had to have insurance, audits, boards, etc., all of which had to be paid collectively by the municipal governments.

Town of Mammoth Lakes, CA Relies on Local Housing Nonprofit

Mammoth Lakes Housing (MLH) was created by the Town of Mammoth Lakes to help it meet the pressing need for affordable and workforce housing. The organization was launched in 2003 with three grants of $67,000 each from the Town of Mammoth, and two local resort management companies, the Mammoth Mountain Ski Area and the Intrawest Mammoth Corporation. In 2002, Mammoth Lakes voters approved an increase in the Transient Occupancy Tax (TOT) with the condition that a portion of the funds be used for the creation of affordable housing. This tax generates approximately $250,000 annually to fund a local housing trust fund. The town also recently adopted affordable housing mitigation regulations that require developers of new housing, hotels, resorts, or commercial real estate to develop new affordable housing units as part of these projects. The number of affordable units is calculated based on the total number of housing units, hotel rooms, or commercial square footage developed. The new funding together with the expected volume of affordable units created through the mitigation ordinance created an obvious need for a new administrative and oversight capacity.

Prior to launching Mammoth Lakes Housing the town considered creating a housing authority or hiring a housing coordinator within local government to oversee these programs. Ultimately the town decided that a local nonprofit would be a more efficient alternative. In the resolution providing initial funding for MLH, the town notes that "it was determined that government run housing authorities tend to be bureaucratic and are often too hamstrung by government regulations to act quickly, decisively, and in an innovative fashion. The town therefore opted to assist in the creation of a non-profit housing corporation to facilitate affordable housing by, among other things, developing innovative, locally-based initiatives and programs that work hand in hand with private sector efforts to address housing needs."[13]

MLH has an unusually close relationship with local government. The town of Mammoth Lakes contracts with MLH to provide a number of services including monitoring of their entire portfolio of resale price restricted housing, collecting data on housing needs, working with private developers to insure compliance with the housing mitigation ordinance and otherwise assisting the town in meeting its housing goals. In 2005 MLH received $126,000 under its contract with the town to support the provision of these services.

MLH's contract with the town includes a wide range of broadly defined services including:

- Maintaining documentation of housing needs data as required for state and federal reporting requirements
- Administering and monitoring deed restricted housing
- Assisting with other regulatory requirements of the town
- Surveying local builders, developers, and realtors and collecting other data regarding the sale and rental of residential properties
- Preparing regular written reports to assist the town in compliance with the provisions of the town's housing element

While the contract is intentionally open ended, in practice, Mammoth Lakes Housing acts as the housing arm of the town in many respects. The town looks to MLH to develop housing strategies, identify potential projects, and plan for the allocation of its housing trust fund dollars. MLH works closely with any developer proposing new housing to help the developer to understand and meet its obligations under the housing mitigation ordinance. The mitigation ordinance spells out specific formulas for determining a developer's affordable housing obligations and requires that these obligations be satisfied through onsite production of new housing, however, the ordinance also allows the town to approve alternative mitigation proposals. While MLH has no official authority to review these

alternative proposals, in practice, MLH negotiates specific alternatives with developers and has identified several situations where the town's interests are better served by allowing developers to meet their obligations through land dedication or payment of in lieu fees. In these cases, MLH has worked out detailed proposals jointly with the proposing developers and jointly presented them to the town for approval. MLH is compensated for its investment of staff time in these negotiations through its annual service contract with the town.

The Town of Mammoth Lakes appoints two of the five directors of the organization, Mono County appoints one director, and the remaining two board seats are filled by vote of the three public sector directors.

Orange Community Housing and Land Trust Stewards Chapel Hill's Inclusionary Units

From the organization's inception, the Orange Community Housing and Land Trust was seen by the region's local governments (Town of Chapel Hill, Orange County, and the Town of Carrboro, North Carolina) as a partner in developing and maintaining affordable homeownership opportunities. In 2007, OCHLT had 128 affordable homes under its stewardship, and 102 of these homes had been acquired by the land trust as a result of the Town of Chapel Hill, North Carolina's inclusionary zoning policy, which strongly encourages developers to partner with OCHLT. The town effectively relies on the CLT to monitor the affordability, occupancy, and maintenance of units created because of the inclusionary policy.

In this system, the developer will contract with OCHLT to purchase the units and subsequently sell the improvements to a qualified household. OCHLT negotiates a marketing fee of $2,000 to $3,000 per unit to cover the marketing and sales costs. For all units in the OCHLT portfolio, staff are responsible for marketing the homes to eligible buyers, maintaining a waiting list of interested households, educating households about the land trust model of homeownership, and monitoring the ground lease requirements. At resale, OCHLT will assist sellers to identify an eligible buyer and enter into a ground lease with the subsequent owner.

There are currently six full-time staff positions at OCHLT: executive director, sales and marketing manager, construction manager, office manager, sales and marketing associate, and land trust project manager. A full-time property manager is expected to be hired within the year. The organization started out with three employees: the executive director, project manager, and office manager. After the first fourteen houses were built, they took on a sales and marketing manager. After Chapel Hill adopted an inclusionary housing policy, half of OCHLT's time became dedicated to sales and marketing of the units so they hired a part-time sales associate. As the number of units in the portfolio grew, this part-time position became full time. OCHLT now has two full-time staff for marketing, sales, and resales of units.

OCHLT has an organizational operating budget of roughly $475,000. In recent years over 60 percent of operating funds has come from the three local governments in the region that OCHLT serves. OCHLT generates about 4 percent of the operating fund through monthly ground lease fees of $11 to $22 per unit and another 3 percent of the budget from resale fees. All new owners are also expected to pay into a fund for long-term maintenance of the units, which varies from $49 to $127 per month depending on the type of unit. These funds will not cover all maintenance, but can be applied to major repairs or replacements of such things as roofing, repainting, replacing HVAC, floor coverings, and hot water heaters. The monthly maintenance fees are included in subsidy calculations so that the additional expense does not negatively impact the affordability of the unit.

Notes

[1]Orange County Grand Jury 2003-2004, "Has Orange County Given Away the Farm? Addressing Problems Associated with Orange County Housing Authority Invalid Releases of Resale Restrictions on California Coastal Commission Affordable Housing Units", (http://www.ocgrandjury.org/pdfs/givenawayfarm.pdf (accessed October 23, 2007).

[2]Martha Sadler "Housing Scandal Redux," Santa Barbara Independent, July 27, 2006.

[3]*On Common Ground: Joint Principles on Inclusionary Housing Policies*. Nonprofit Housing Association of Northern California and the Home Builders Association of Northern California, July 2005.

[4]Polly V. Marshall and Barbara E. Kautz, Ensuring Continued Affordability in Homeownership Programs, Goldfarb & Lipman LLP, Institute for Local Government, May 1, 2006.

[5]In 2005 the Orange County Superior Court ruled that deed restrictions recorded by the California Coastal Commission to protect affordability of condominiums in the Niguel Beach development in Dana Point, California, were unenforceable because, among other things, resale price restrictions were not adequately explained to the buyers. See Dan Weikel "Ruling Backs Condo Owners," *Los Angeles Times*, April 13, 2005.

[6]In many cases, repurchasing units at market prices may require additional public investment beyond the recaptured loan principal and shared appreciation.

[7]*City of Palo Alto Below Market Rate Housing Program Economic/Policy Analysis and Recommendations*, Keyser Marston Associates and Anderson Associates, March 2007.

[8]The City of Mountain View, CA, has developed a flexible inclusionary housing program that allows developers of ownership housing to pay in-lieu fees under most circumstances. Since the program was adopted in 1999, Mountain View has collected nearly $6 million in such fees, which it uses to subsidize affordable rental projects developed by local nonprofit developers. However, the City has found that the collection of in-lieu fees also includes substantial administrative costs and challenges in monitoring and collecting fees. Additional staff resources have been required to manage their BMR program including coordinating investment of the collected funds into new affordable rental projects.

[9]John Davis, Rick Jacobus and Maureen Hickey. *Municipal Support for Community Land Trusts*, (Cambridge, MA: Lincoln Institute for Land Policy, forthcoming).

[10]Profiles by Maureen Hickey, Burlington Associates in Community Development.

[11]The cities of American Canyon, Calistoga, and Napa as well as the town of Yountville have adopted inclusionary housing programs. All together, there are roughly 200 price-restricted units.

[12]The issue that led to the dissolution of the Napa Valley Housing Authority is related to the development and management of farm worker housing in the county and not the administration of the other affordable housing programs.

[13]Town of Mammoth Lakes, May 21, 2003, Stephen B. Julian, Town Manager.

Lifting Up What Works®

PolicyLink

PolicyLink is a national research and action institute advancing economic and social equity by Lifting Up What Works.®

Headquarters:
1438 Webster Street
Suite 303
Oakland, CA 94612
t 510 663-2333
f 510 663-9684

Communications:
55 West 39th Street
11th Floor
New York, New York 10018
t 212 629-8570
f 212 730-2911

All Rights Reserved.
Copyright © 2007.

Design: Leslie Yang

COVER PHOTOS COURTESY OF (clockwise from top left): ©iStockphoto.com (Justin Horrocks), ©iStockphoto.com (Tony Tremblay), ©iStockphoto.com (Danny Warren), ©iStockphoto.com (Tor Lindqvist).

PHOTOS COURTESY OF: p.2: ©iStockphoto.com (Jelani Memory), p.9: ©iStockphoto.com (Justin Horrocks) p.11: ©iStockphoto.com (Danny Warren).