

Nine Lessons for Inclusionary Zoning
Keynote Remarks of David Rusk¹
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Over the past 13 years I have spoken on inclusionary zoning (IZ) in over 100 communities and have actively worked on about a half dozen local campaigns. I would like to share my thoughts on where inclusionary zoning is today, what its potential could be, and nine lessons I've learned on how to get from what is to what could be.

Where are we? From studies by others, such as Non-Profit Housing Association of Northern California and BPI, I've compiled a master list of IZ communities. The criteria for getting on my list are pretty exacting: 1) the IZ law must be mandatory, not voluntary; 2) it must cover all residential construction above a certain minimum project size, or "trigger point;" and 3) it must be jurisdiction-wide (not just targeted on certain areas).

On my list are 134 cities, towns, and counties with 13.2 million residents in Census 2000. That means that almost five percent of our country's population now lives in communities that mandate mixed-income housing as a part of new housing developments.

My list is undoubtedly an undercount.

- I don't cover Massachusetts adequately due to insufficient data about many towns' inclusionary housing policies;
- I haven't caught up with events in Illinois where the legislature enacted the Affordable Housing Planning and Appeals Act of 2003 – an extraordinary achievement for the housing advocates, led by BPI. The Act requires every one of Illinois' 2,824 counties, cities, and townships to have at least 10 percent affordable housing. An increasing number of local governments are adopting IZ laws to meet that goal;

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- I refuse to list anything in New Jersey as long as Regional Contribution Agreements (RCAs) are in effect. RCAs were authorized by the state legislature to allow wealthy suburbs to sell back up to half of their “fair share” affordable housing quota to poor cities, thus escaping their court-ordered constitutional duty under the *Mt. Laurel* doctrine; and
- I haven’t listed New York City where a community coalition of thirty organizations has been successfully pressuring the city council to set aside 20-30 percent for affordable housing in recent major upzonings on a case-by-case basis.

IZ’s Potential

What could IZ achieve? I have simulated “what-if” scenarios for the USA’s 100 largest metropolitan areas. What if mandatory IZ laws had been in effect throughout these metro areas for the past twenty years? I assumed a 15 percent set-aside (the most common standard) and a trigger point of ten or more units (the most common provision) that would cover about 80 percent of all new construction.

Between 1980 and 2000, 21.8 million new housing units were built in these 100 metro areas. IZ would have yielded 2.6 million inclusionary units – almost twice as many affordable homes as were built utilizing Low Income Housing Tax Credits (that HUD says help finance 90 percent of all affordable housing built). That would have met about 40 percent of the affordable housing need, according to the National Housing Conference.

Furthermore, suppose all these communities implemented Montgomery County’s policy of having its public housing authority buy or rent one-third of the inclusionary units to extend the assistance to very low- and extremely-low income families (less than 50 percent and less than 30 percent of Area Median Income, respectively). This would have reduced levels of economic segregation in these 100 metro areas by 37 percent.

In hot housing markets with relatively low concentrations of poverty, such as Charlotte, Las Vegas, Orlando, Raleigh-Durham, and West Palm Beach, economic segregation could have been totally eliminated.

In slow housing markets with high concentrations of poverty, economic segregation could have been reduced by 13 percent in Buffalo, by 16 percent in Cleveland, Detroit, Milwaukee, and Newark, and by 19 percent in Philadelphia.

Housing Policy *Is* School Policy

IZ would have an even bigger impact on *economic* school segregation, which has been rising steadily in this country. Practically any child from a family earning less than 70 percent of Area Median Income qualifies for federal free and reduced-price meals. I have studied, for example, all 392 elementary schools in the 17 school districts of metropolitan Denver. If those 17 school boards adopted policies to achieve reasonable economic balance within each district's elementary schools, economic school segregation would be reduced by about 20 percent. But if school board policies were complemented by metropolitan-wide IZ, the combination would reduce economic school segregation by 75 percent – levels lower than in Sweden or The Netherlands, very economically egalitarian societies.

That would have a dramatic impact on low-income children's test scores. Studies I have done for the Albuquerque, Madison, Baltimore, and five major Texas metro areas show that, for example, the difference between a poor child's attending a school where 80 percent of classmates are also poor, and that child's attending a school where 80 percent of classmates are middle-class would, on average, be a 13 to 15 percentile improvement in the child's test scores.

Housing policy is school policy. Where a child lives largely determines educational opportunities – not so much in terms of how much money per student the local school district is spending, or pupil/teacher ratios, or school facilities, etc. but rather in terms of who their classmates – and, through inclusionary housing, playmates – are.

Nine Lessons for Achieving IZ

Such projections of IZ's potential impact are just exercises in mathematics. How do we get from here to there realistically? Let me suggest nine lessons based on my experiences.

Lesson #1: Enact a mandatory, not voluntary, IZ law. Voluntary programs don't produce much inclusionary housing. They simply give spineless public officials political cover that "they've done something" while it's "business as usual" for builders – but for only another five or ten years.

Lesson #2: Advocate IZ primarily as meeting workforce housing needs rather than advancing social justice. A winning slogan is "Anyone good enough to work here is good enough to live here." At Empower Hampton Roads' pro-IZ rallies, hundreds of people wave signs saying "MIZ

is good for BIZ” as well as “MIZ is good for KIDZ.” (“MIZ” means “mandatory inclusionary zoning.”)

Lesson #3: However, advocate firmly (if more quietly) that IZ must serve the full range of workforce housing needs. IZ must not only help young police officers, firefighters, and teachers (for whom it is easy to rally public support) but your community’s hospital orderlies and nursing home aides, convenience store clerks, and school janitors.

Lesson #4: Be fair to builders. An IZ law *must* be a “win/win,” helping meet both the community’s need for workforce housing and protecting the private homebuilders’ profitability. At best, builders should be able to make a profit on the inclusionary units themselves. At worst, the bottom line should be revenue neutral for the entire development. Builders must not suffer any economic loss through IZ compliance.

Assuring fairness requires that the local government provide a menu of cost-offsets. Density bonuses are the most important. In fact, density bonuses should be proportionally greater than the inclusionary set-aside so that the builder can reap the benefit of some bonus market-rate units. Other important cost-offsets are reducing or waiving certain city fees, modifying or waiving park dedication or parking requirements, providing flexibility on subdivision design (e.g. reduced street widths, etc.), and expedited processing of plats and permits (“time is money”).

Lesson #5: Use other public subsidies to achieve deeper affordability. Even with all the cost-offsets, most builders cannot bring production costs below what families at 50-60 percent AMI can afford. The best strategy for extending IZ assistance to nursing home aides and convenience store clerks, for example, is to adopt Montgomery County’s policy: have your housing authority or other public agency buy (or rent) one-third of the IZ units.²

Lesson #6: Focus on getting an area’s first IZ law adopted. Neighbors do follow the leader. On my list, 34 municipalities were the first

² The Montgomery County Housing Opportunity Commission has purchased 1,722 for-sale units and annually rents from 1,000 to 1,500 rental units for very low- and extremely low-income households. For thirty years the county’s economic segregation index has been low and stable (right around 27 on a scale of 0 to 100). Fairfax County adopted the same policy, but has lagged in implementing it, purchasing less than 100 IZ units. Its economic segregation index rose from 22 to 33 in the same three decades. Fairfax County is now purchasing at least 25 inclusionary units a year.

to adopt an IZ law; they averaged 17 percent of their county's population (some were less than 1 percent). Other cities subsequently enacted IZ laws so that IZ coverage now averages 52 percent of county populations.

Lesson #7: Counter fears and bad information with facts. The fear most commonly voiced is that inclusionary housing will lower the value of nearby homes. Many studies have shown that to be untrue.³

Examples of bad information are two studies of inclusionary zoning by the Reason Public Policy Institute, a libertarian think tank. They were commissioned by two California homebuilders associations⁴ and purport to prove that IZ caused reductions in homebuilding activity after adoption. However, for an organization that exalts the "free market" and is opposed ideologically to government regulation, Reason PPI chose to examine trends only in those cities that had IZ laws and not in non-IZ cities in their markets.

I have done so for the Orange County study. I examined long-term housing trends not only for the five IZ cities but for the other 29 cities in Orange County (plus seven Census-designated Places within the unincorporated area of Orange County). What I found was that decline in housing production was highly correlated with relative residential density at the outset of each period studied. In other words, cities with a lot of developable land experienced high levels of homebuilding; in cities where developable land was growing scarce, homebuilding dropped off. There was no correlation with whether or not a community had enacted an IZ law. In many cases, growing scarcity of land and rising housing costs were the stimulus for enacting IZ laws.

³ Two such studies are "The House Next Door" (www.inhousing.org/housenex.htm) by the Innovative Housing Institute (IHI) and the Greater Washington Research Council and "Effects of Mixed-Income, Multi-Family Rental Housing Developments on Single-Family Home Values" (http://mit.edu/cre/research/hai/pdf/40B_report_HAI_0405.pdf) by the Massachusetts Institute of Technology's Center for Real Estate.

⁴ Patrick Maier, IHI's executive director, was advised by a buddy on the staff of the National Association of Home Builders, "Don't expect NAHB to ever support inclusionary zoning. It just isn't in our DNA." To provide a forum for pro-IZ homebuilders, IHI has received seed money from the Ford Foundation to explore organizing "inclusionary homebuilders associations." They would not seek to supplant NAHB chapters but rather be a locale for a) exchanging best practices on building inclusionary housing, b) developing model IZ ordinances, and c) encouraging builders to share their pro-IZ experiences with other communities considering enacting IZ laws.

Lesson #8: Organize broad-based, pro-IZ coalitions. Getting your local government to enact an IZ law isn't just a matter of marshalling the right arguments and evidence. It's a political decision. You've got to have a critical mass of political power to move your city council or county commission to act.

But your job has only begun when you succeed in getting your local government to enact an IZ law. You've got to constantly follow through to make sure IZ is effectively implemented. That means that you've got to hold local officials to their commitments both to the affordable housing advocacy community and to the homebuilders. For example, you'll have to stand up in planning commission and city council meetings to make sure that they are granting the density bonuses promised homebuilders in the face of NIMBY-ism-fueled opposition from neighborhood groups. A deal is a deal, and an effective IZ law must be a good deal for homebuilders.

Lesson #9: Fight for Statewide IZ laws: A half dozen states have laws that encourage inclusionary housing in various ways. California, New Jersey, Massachusetts, Connecticut, Florida, and Virginia come to mind, but no state has yet passed an unambiguous, mandatory IZ law. Ultimately, the only way to get metropolitan-wide coverage is for state law to require it.

Jim Crow by income is steadily replacing Jim Crow by race. As racial segregation slowly diminishes, economic segregation increases – with heavy racial and ethnic implications. IZ is the most direct tool to attack economic segregation. Mixed-income neighborhoods are the best housing policy. Mixed-income neighborhoods are the best school policy. Mixed-income neighborhoods are the best anti-crime policy. Mixed-income communities are the best anti-fiscal disparities policy.

When we convene again in our next national inclusionary housing conference, let's have doubled that list of inclusionary communities.

Thanks you.