



Left to right: Diane Spaulding, Executive Director of NPH; Judith Bell, President of PolicyLink, David Rusk, author, founding board member of Innovative Housing Institute, and consultant to Ford Foundation.



Center: Angela Glover Blackwell, Executive Director of PolicyLink keynote speaker at 2007 NIHC. Ms. Blackwell was the keynote speaker for the Florida Housing Coalition's 2003 Conference.



Left to right: NIHC Conference Planners and Presenters, Adam Gross, Business and Professional People for the Public Interest and Jaimie Ross, 1000 Friends of Florida.

Inclusionary Housing: What's Happening Nationally and Right Here at Home

BY JAIMIE ROSS

The National Inclusionary Housing Conference was held October 30 - November 1, 2007 in San Francisco. I had the privilege of planning and participating in this conference as a board member of the Innovative Housing Institute, a national nonprofit that promotes mixed income communities. Housing professionals, planners, lawyers, and advocates gathered from around the country, as well as a delegation from South Africa, to share the latest in best practices for creating economically integrated communities.

At the Florida Housing Coalition's statewide conference held September 5-7, 2007 in Orlando, "The Economics of Housing" included one workshop on linkage fees, featuring Dr. James Nicholas and another on inclusionary housing, featuring Bernie Tretault.

Just weeks after the conference, but more than two years in the making, the Village of Islamorada in Monroe County adopted an ordinance which is both linkage fee and inclusionary housing and applies to both residential and nonresidential development. This is the first of its kind in Florida but may become more widely used as an increasing number of communities face the economic consequences from the gap between worker salaries and housing costs, even with a downturn in the housing market.

This article covers the most recent and comprehensive research on inclusionary housing, best practices for crafting an inclusionary zoning ordinance, and our latest example of a progressive response to the economic consequences of housing market failure from Islamorada, Florida.



AN AMBITIOUS EFFORT TO EXAMINE THE IMPACT OF INCLUSIONARY HOUSING

A recent report from the Nonprofit Housing Association of Northern California (NPH) "Affordable By Choice: Trends in California Inclusionary Housing Programs,*" looked at housing produced through inclusionary programs from January 1999 through June, 2006. The key findings of the study are*:

- 1. One Hundred Seventy Jurisdictions in California have Inclusionary Housing Programs.** This represents nearly one-third of all California jurisdictions.
- 2. More than 80,000 Californians have Housing Through Inclusionary Programs.** Since 1999 inclusionary programs have created an estimated 30,000 units statewide.
- 3. Most Inclusionary Housing is Integrated Within Market-Rate Developments.** The housing is built



David Rusk, author of Inside Outside Game, also keynote speaker at Florida Housing Coalition's 2001 Conference



Dr. Jim Nicholas, economist, presenter at Florida Housing Coalition's 2007 Conference



Bernie Tretault, founder and president of Innovative Housing Institute speaking (above left) at 2007 National Inclusionary Housing Conference and (above right) at Florida Housing Coalition's 2007 Conference.



along with and indistinguishable from market rate units, creating socially and economically integrated communities affordable to a wider range of families. As a result, teachers shop at the same grocery stores as the parents of their students, and the elderly are finding safe apartments close to their children and grandchildren.

4. Inclusionary Housing Provides Shelter for Those Most in Need. Nearly three-quarters of the housing produced through inclusionary program is affordable to people with some of the lowest incomes. These findings shed new light on the popular perception that inclusionary policies create ownership units mostly for moderate- income families.

5. Lower-Income Households are Best Served Through Partnerships. When market-rate developers work with affordable housing developers to meet their inclusionary requirement, the units are more likely to serve lower-income households. Joint ventures play a particularly important role in developing units for households most in need. One- third of all the housing built through inclusionary programs resulted from partnerships between market rate and affordable developers.

*To order a copy of the full report, Affordable by Choice: *Trends in California Inclusionary Housing Programs* contact NPH at www.nonprofithousing.org and click on what's new.

BEST PRACTICES FOR CRAFTING AN INCLUSIONARY HOUSING ORDINANCE.

An inclusionary housing ordinance must be tailored at the local level to reflect the development patterns, market conditions, and affordable housing needs in a particular jurisdiction. But all inclusionary zoning ordinances will have certain common elements. The following are best practices for addressing those common elements.

 **A threshold number of market rate units that activates the inclusionary requirement.** The best way to choose that threshold is to look at the historical and anticipated development patterns in your jurisdiction. If most site plan approvals are for 25 unit developments, a threshold of 35 units would be too low. In every jurisdiction in Florida, an inclusionary housing requirement should apply to large scale developments so that the creation of planned unit developments or new urbanism towns never excludes affordable housing. Therefore, an ordinance with a high threshold, such as 100 or 200 residential units would be appropriate in every jurisdiction, especially those areas that anticipate substantial future growth.

 **A requirement that the affordable units are comparable in quality and aesthetics to the market rate units.** Even if they are smaller or of a different type (e.g. town home rather than single family home), the inclusionary housing should blend into the community. Some ordinances require that the inclusionary units be the same size as the market rate units. There may be legitimate concern that the inclusionary units not be sub-standard, but the ordinance must balance the goal of unit production and the need to keep the development economically feasible. The key to comparability is the external, not the internal, features.

 **Timing.** The inclusionary units must be built prior to or concurrently with the market rate units. This avoids any potential NIMBY problems for the developer and any potential compliance problems for the local jurisdiction, should the developer build and sell the market rate units and fail to undertake the affordable units.

 **Benefits or incentives to assist the private sector in providing the affordable units, such as density bonuses.** An increase in density allows the developer to

produce additional units that could not have been built but for the inclusionary housing requirement. This makes the density bonus the most valuable government incentive- adding substantial economic value through land use regulation. The density bonus must be “of right” and not subject the developer to delays from additional approvals.

Flexibility. Flexible options for meeting the inclusionary requirement should not be seen as a weak ordinance. Providing an array of options for the developer to use in meeting the inclusionary requirement, such as off-site development and land donation, will create a better partnership between the private and public sector and better outcomes when the market rate site is not appropriate for the development of affordable units.

A provision for payment in-lieu. If the purpose of the ordinance is to have affordable housing built within market rate developments this provision may not be a good option. It is also not appropriate for large scale residential development because its application is when the nature of the development makes it practically infeasible to include affordable units. If the inclusionary program is intended to mitigate for housing impacts and is supported by a nexus study, an in lieu fee maybe appropriately apply in that instance, akin to an impact fee. The amount of in-lieu fee must be sufficient to support the development of the affordable units which would have been built under the ordinance. If the in-lieu fee is too low, the market rate developer will likely opt to pay the fee and not build the units. There must be a local housing trust fund as the depository for the payments in-lieu and a mechanism for using those dollars to promote inclusionary housing.

An affordability period. One of the most critical elements in an inclusionary housing ordinance is long term affordability. When an affordable product is included in an otherwise unaffordable area, appreciation inflates at a substantially greater rate. Once a local government has adopted and implemented an inclusionary housing ordinance, it is imperative that a long term period of affordability accompany the development of the unit.

Program Administration. Policies for administration of the program. Adopting an inclusionary ordinance is just the beginning. It is a complicated program to imple-

ment and requires significant staff time. Local jurisdictions adopting inclusionary requirements need to budget for staff time and or partner with a local nonprofit, such as a community land trust to manage the resale of the units.



VILLAGE OF ISLAMORADA ADOPTS INCLUSIONARY/LINKAGE FEE ORDINANCE

The Islamorada ordinance was adopted on September 27, 2007. It requires residential and commercial property owners to provide workforce housing needed due to expanding existing buildings or building new market-rate construction. The ordinance is couched in terms of a mitigation plan based on the findings in a nexus study. Generally, it requires that 30% of the affordable workforce housing be provided, but the mitigation plan includes substantial flexibility in how that need may be met, including on site, off site, land donation, in lieu fees and a combination of all the above.

CONCLUSION

Inclusionary zoning is an effective tool for producing mixed income communities and for responding to the shortage of housing for the local workforce. The need to provide housing that is affordable to a community’s workforce, coupled with Florida’s housing element requirements; make inclusionary programs an obvious choice. But an inclusionary housing ordinance is typically met with substantial resistance from the market-rate development sector. The housing ordinance *Continued on page 30*

THE PREAMBLE TO THE ORDINANCE PROVIDES OPTIMUM INSIGHT INTO THE FOUNDATION FOR A LOCAL INCLUSIONARY POLICY:

WHEREAS, pursuant to the Local Comprehensive Planning and Land Development Regulation Act (the “Growth Management Act”) Islamorada, Village of Islands (the “Village”) has provided a housing element in its Comprehensive Plan, which includes provisions related to the current and future housing needs of residents within the Village; and

WHEREAS, the Village has prepared and adopted The Islamorada, Village of Islands, Workforce Housing Support Study (hereinafter Workforce Housing Study), dated September 2007, attached as “Exhibit A” and incorporated herein by reference, that identifies there is a housing affordability problem in the Village; and

WHEREAS, as the Workforce Housing Study demonstrates, beginning in 2000, a significant second home and tourist market emerged in the Village for vacationers and other persons with substantially higher incomes than local workers. That the housing demand created by these persons with substantially higher incomes have contributed to a dramatic increase in land and construction costs, and a rise in the price of all housing in the community. That rise in housing prices has made private housing unaffordable to most all working residents within the Village, and forced a number of residents to move elsewhere, including outside of Monroe County; and

WHEREAS, the Workforce Housing Study demonstrates the jobs that are expected to be created by much of the new development and redevelopment in the Village is expected to pay wages that make market rate housing in the Village unaffordable; and

WHEREAS, the Workforce Housing Study also demonstrates that the development and redevelopment of both residential and nonresidential development creates additional need for affordable housing in the Village; and

WHEREAS, if these present trends continue, an essential component of the Village’s community character will be damaged since

most of the workforce and their families will no longer reside in the community, attend schools in the community, participate in local civic organizations, worship in the community, act as emergency services volunteers, or express their ideas at the ballot box; and

WHEREAS, to address this serious community problem and to maintain the long-term sustainability of the Village’s economy and the character of the community, the Village Council has established the goal of providing housing in the Village to serve 30% of the generated local workforce and their families, at prices they can afford; and

WHEREAS, in part to accomplish these objectives, the Village Council adopts these Affordable Housing Standards contained within this Ordinance; and

WHEREAS, the Workforce Housing Study supports the Affordable Housing Standards adopted in this Ordinance; and

WHEREAS, pursuant to Section 166.04151, Florida Statutes, the Village may set forth any law, ordinance, rule, or any other measure adopted for the purpose of increasing the supply of affordable housing, including land use mechanisms such as affordable housing mitigation requirements; and

WHEREAS, the “Principles for Guiding Development” set forth in Section 380.0552 (7), Florida Statutes, requires the Village to undertake programs which make adequate affordable housing available for all sectors of its population; and

WHEREAS, Objective 3-1.1 of the Housing Goals, Objectives, and Policies of the Future Land Use Element of the Village Comprehensive Plan provides for the establishment of regulatory mechanisms and incentives to encourage the construction of affordable housing; and

WHEREAS, there is a reasonable relationship and rational nexus between the development and redevelopment of both residential units and nonresidential development and the need for affordable housing; and

or inclusionary program should therefore be crafted carefully, incorporating best practices derived from the experiences of jurisdictions that have tread these waters, and with the assistance of professionals including economists and lawyers.



JAIMIE ROSS is the Affordable Housing Director at 1000 Friends of Florida, a statewide nonprofit growth management organization. Prior to her tenure at 1000 Friends of Florida beginning in 1991, Ms. Ross was a land use and real property lawyer representing for profit and nonprofit

developers and financial institutions. Jaimie initiated and continues to facilitate the Sadowski/Workforce Housing Coalition. She is the author of books, articles, and other tools for producing and preserving affordable housing and creating balanced residential communities, including a CD on best practices for inclusionary housing policies, funded by the Rockefeller Foundation. Ms. Ross directs the Florida Community Land Trust Institute and chairs the Affordable Housing Committee of the Real Property Probate & Trust Law Section of the Florida Bar. Nationally, she serves on the Editorial Advisory Board of Affordable Housing Finance Magazine and the Board of the Innovative Housing Institute. She is the President of the Florida Housing Coalition. Email: jaimieross@aol.com.