INCLUSIONARY HOUSING

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Origins of IH in the U.S. in the 1970s

1) growth management and concern for QOL legitimizes higher levels and new forms of "exactions;"

2) housing cost crises at the same time that the Federal government practically eliminates affordable housing programs force lower levels of government to intervene and;

3) exclusionary zoning practices and failure of efforts to foster socioeconomic integration point to the need for new approaches

All these factors combine to give impetus to IH in the 1970s

IH in Europe
A trend initiated only about twenty years ago
Why?

Counterintuitive

We would expect more government intervention in Europe

Alan Mallach noted in his 1982 *Inclusionary Housing Programs*:

"…the specific approach characterized as an IH program is largely an American phenomenon…the inclusionary objectives of other countries are achieved through more direct public sector intervention in the financing and production of housing than in the United States"

But Mallach was writing more than thirty years ago

and the balance between the private and public sectors has shifted in the meantime

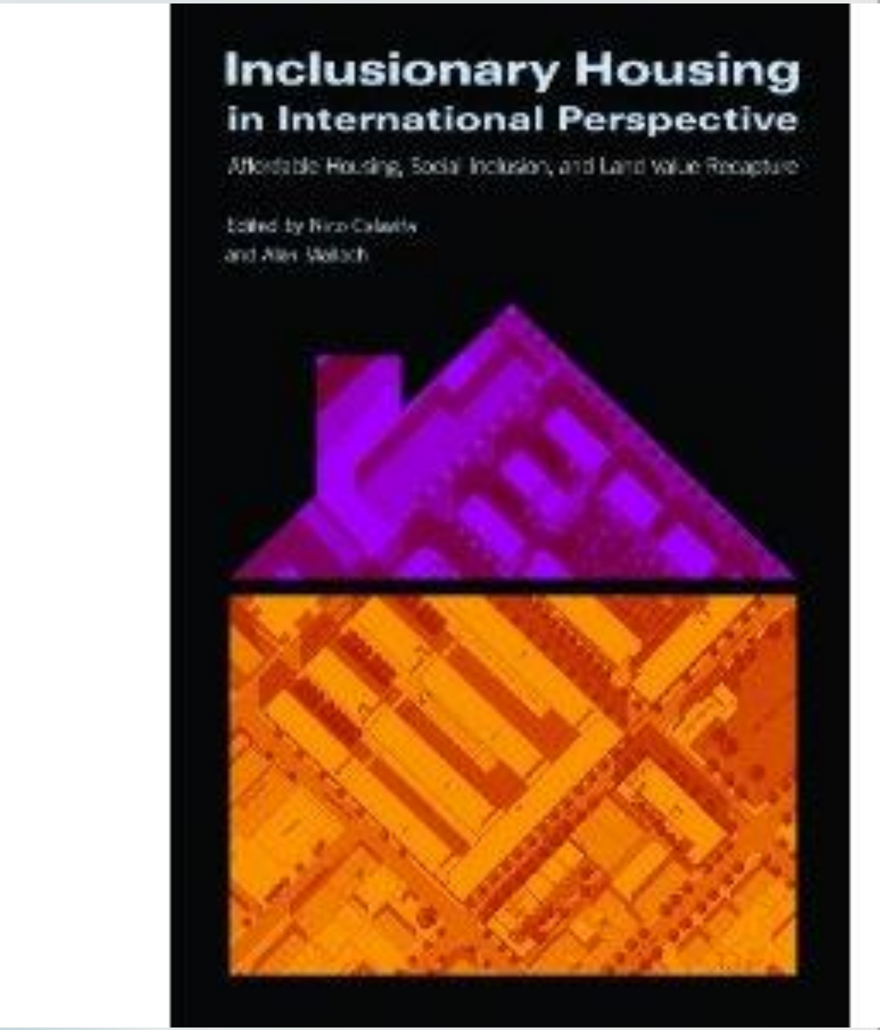
Enter privatism and the retrenchment of the public sector

- Cutbacks in social housing programs
- Devolution

As the private sector acquires new importance in Europe, localities and regions have turned to planning measures and programs that, as in the U.S., utilize the private housing market to produce affordable housing

They have turned to various forms of Inclusionary Housing

To analyze these new approaches in Europe (Italy, Spain, France, Great Britain, Ireland) and compare them with those in the U.S. and Canada, Alan Mallach I conducted a comparative research with the support of the Lincoln Institute of Land Policy



Inclusionary Housing (IH), by linking affordable housing to the market place carries with it particularly significant implications for public policy

It lies at the intersection of a number of critical issues affecting not only the U.S. but the entire world

- The provision of social housing
- The fight against social and economic segregation
- The fostering of social inclusion, AND
- The relationship between land value, development regulation, and the property rights regime

The relationship between land value, development regulation, and the property rights regime

Art. 47 of the Spanish Constitution:"…The community shall share in the increased values generated by the urban activities of public bodies."

"Increased values"

- Betterment
- *Plusvalias*
- *Plusvalore*

"Unearned increments in land values"

“The relationship between land value, development regulation, and the property rights regime”

- IH can be viewed as a land value recapture mechanism

- The way in which this mechanism is utilized is the reflection of the planning culture and constitution/property rights regime in each country.

Back to the US

IH spread quickly to counties surrounding the Washington metropolitan area and to many localities in the State of California, areas with serious affordability problems;

and to the state of New Jersey, as a result of court decisions that declared that zoning was being used to exclude (through large lot zoning) lower-income households and protect property values

The New Jersey Supreme Court declared that

each municipality should provide their <u>regional fair-share</u> of affordable housing

Smart Growth, New Interest in Urban Living

Emphasis on densification, infill and redevelopment of already urbanized areas

IH from the suburbs expands to the cities

IH is being applied not only to new development, but also to existing buildings when Condo Conversions occur

With condo conversions existing (many times affordable) rental apartments are converted into ownership (condominium) units

Affordable housing is lost

Emphasis on redevelopment, "infill" and densification can lead to gentrification

In redevelopment areas IH can become an important mechanism to insure that at least a small percentage of the units remain affordable to low-income households

Outcome: IH as a tool for fostering mixed-income communities in the suburbs acquires new importance in urban areas

Characteristics of IH Programs

IH programs share the following characteristics:

- Inclusionary percentage or set-aside requirements
- Income targets
- Alternative compliance
- Length of affordability
- Incentives or cost-offsets

Inclusionary percentage or set-aside requirements

- San Francisco 12 percent requirement

- However….”developers who want to get in the building boom have quickly realized that it is not enough--neighborhood groups and politicians won’t stand for such a small contribution. Developer voluntarily, increased their contribution to 25 percent…

(SF Chronicle November 5th, 2015)

What level of integration? “Pepperpotting”?

Montgomery County, Maryland

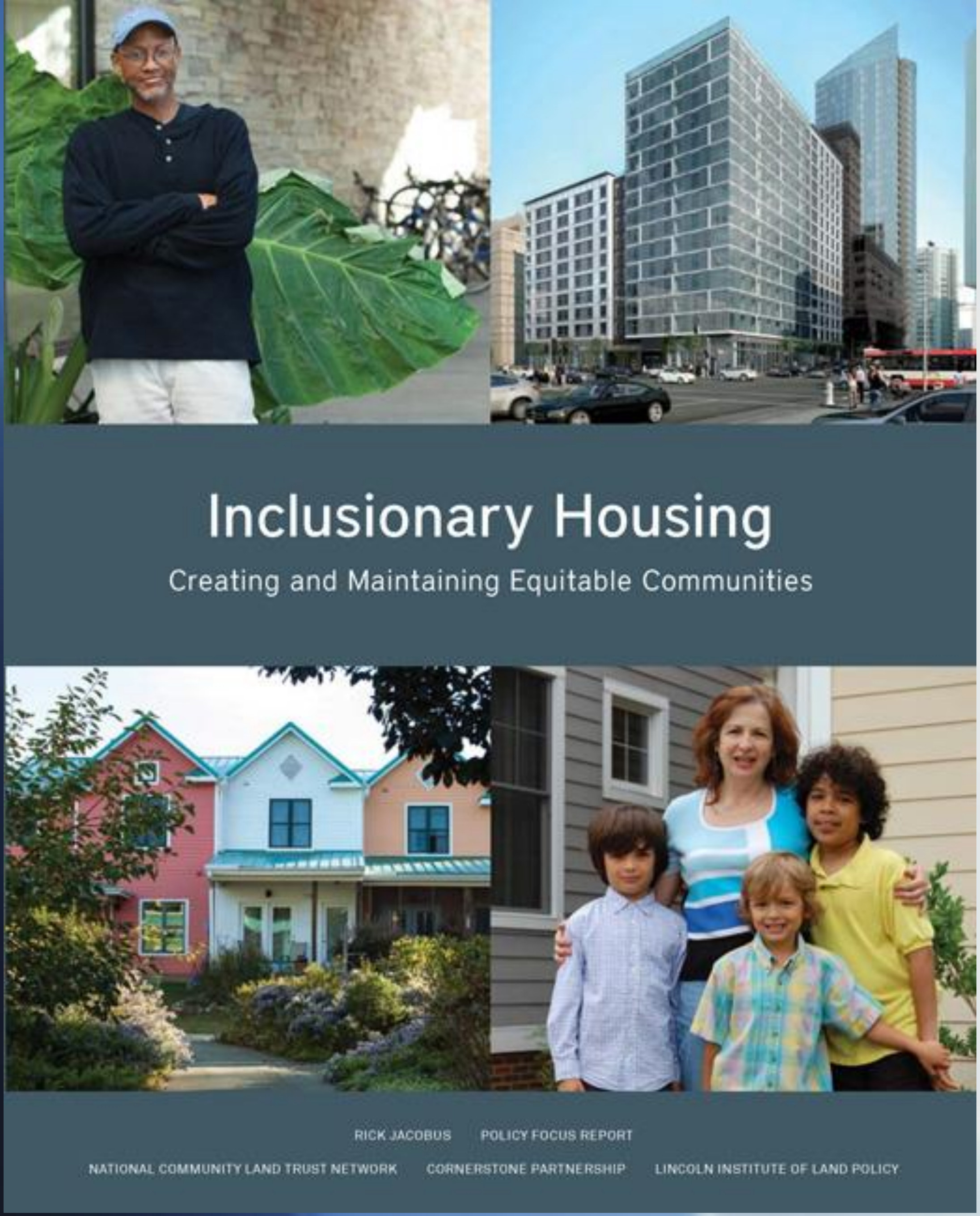
The building on the left contains four IH units

Fairfax County, Virginia

The building on the left contains four IH units

La Costa Paloma, Carlsbad California



Where are we now?

More than 500 programs

- 65 % in California and New Jersey
- Most large cities have it (Portland, LA: **NOT**)
- Oakland - Jerry Brown’s legacy
- IH numbers? 150.000 IH vs 2.5 million LIHTC units

But there is great potential if….

- In the US, where the "right to develop" is far more central to the concept of property rights than is the case in most European countries, IH is often justified by compensating developers for the additional costs of providing IH

- **Public costs**

Incentives and cost-offsets displace costs onto the public, either directly or indirectly

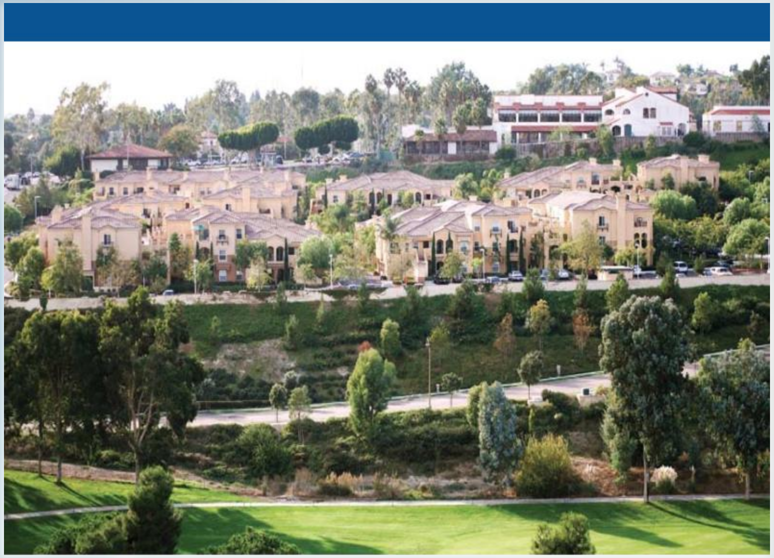
- Financial incentives
- Fee waivers, reductions or deferrals
- Fast-tract permit approvals
- Density bonuses

Density bonuses

When superimposed on existing planning framework, they raise three major areas of concern:

1) They undermine the planning process and existing regulations
2) They may lower the level of service of public facilities and infrastructure
3) They frustrate citizen participation in the planning process

- Alternative: IH as a land value recapture mechanism through rezonings or land use changes, taking into account that planning is a dynamic process
- Now IH is superimposed on an existing framework
  - Cost-offsets and incentives implicitly assume a static view of urban planning



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Inclusionary Housing, Incentives, and Land Value Recapture

Nico Calavita and Alan Mallach

Inclusionary Housing (IH) programs are land use regulations that require developers of market-rate residential development to set aside a small portion of their units, usually between 10 and 20 percent, for households unable to afford housing in the open market. Alternatively they can choose to pay a fee or donate land in lieu of providing units. Originating in the early 1970s, inclusionary housing has grown to be a major vehicle by which affordable housing units are provided in large parts of the United States, as well as an important strategy for affordable housing in many other countries.

From the first days of IH, there has been widespread debate over what is sometimes called the "incidence" controversy—that is, how the costs of providing affordable, and by definition below-market, housing are addressed, and which of the parties in a real estate transaction actually bears those costs. As a result of widespread concern that costs are being borne by developers and/or market-rate homebuyers, and reflecting legal concerns associated with the takings issue, many municipalities enacting inclusionary ordinances have combined them with incentives or cost offsets designed to make the imposition of an affordable housing obligation cost-neutral. Many of these incentives, however, displace costs onto the public, either directly or indirectly.

We suggest that a better approach is to link inclusionary housing to the ongoing process of rezoning—either by the developer or by local government initiative—thus treating it explicitly as a vehicle for recapturing for public benefit some part of the gain in land value resulting from public action.

The La Costa Paloma Apartments in Carlsbad, California, have 180 apartment units affordable to households earning at or below 50 and 60 percent of the area median income.

It seems then that there are two different choices in dealing with the costs of IH

- IH with cost-offsets and incentives

(the public pays)

- IH as a land value recapture mechanism when applied at the time of rezonings

(the landowner pays)

CENTER FOR HOUSING POLICY

Inclusionary Housing A Series of Research & Policy Briefs

Inclusionary Upzoning: Tying Growth to Affordability

By Robert Hickey

July 2014

SUMMARY

Cities and older suburbs are growing again. To accommodate rising demand for urban living, localities are relaxing height and other zoning restrictions in transit-served neighborhoods, along old commercial corridors, and in formerly industrial areas, creating valuable new development potential for residential and commercial builders. An increasing number of local governments are linking this growth with affordability expectations. They are creating inclusionary housing policies that condition upzoning on the provision of affordable housing.

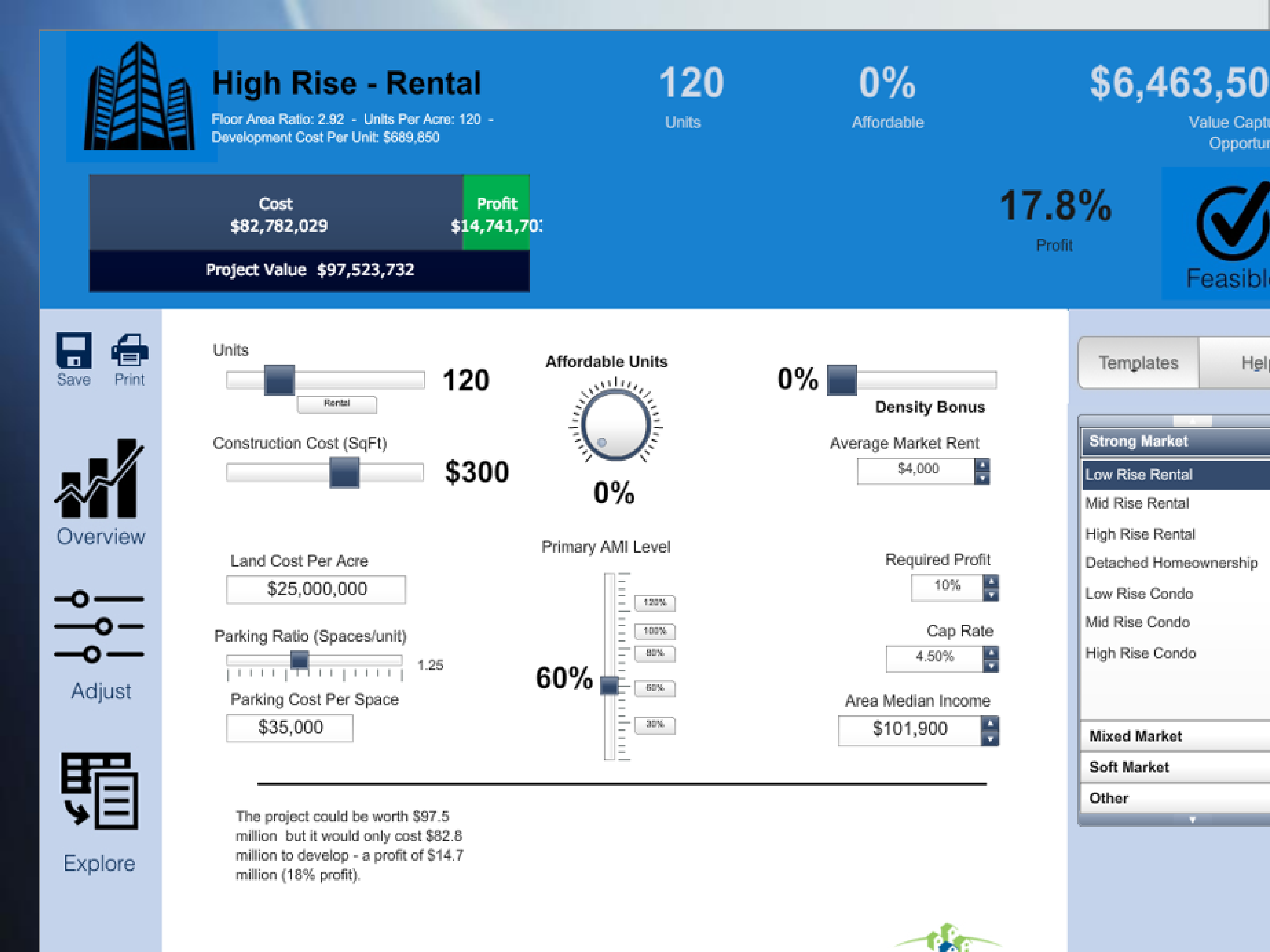
This emerging trend is noteworthy for at least two big reasons. First, tying affordability to upzoning can be an effective means for cities and urban suburbs to harness the renewed energy of the housing market to help address growing affordability challenges. Second, the often voluntary nature of these policies may be a way to introduce inclusionary housing policies in places where political, legal, and/or market barriers have historically impeded the policy's broader adoption.

Over the past decade, inclusionary housing policies that have linked affordability requirements to upzoning have been making inroads in new places such as New York City and Washington State. Significantly, these policies are producing (or are poised to produce) significant numbers of affordable housing units – even when designed as *voluntary* policies reliant on incentives.

This paper profiles six localities that have adopted inclusionary housing policies tied to upzoning, referred to here as "*inclusionary upzoning*." Each profile provides a sketch of how the policy is structured and how effective it has been. Drawing on these examples, the paper explores how neighborhood context, market context, and policy design may affect the success of inclusionary upzoning policies and their potential for adoption in new areas of the country where inclusionary housing has not yet been implemented. The paper concludes with a discussion of areas for future research.

Key findings from case studies:

- **Inclusionary upzoning is especially well suited to communities that have hot housing markets, low base zoning restrictions, and districts where residents are supportive of greater development intensity.**
- **The most impactful inclusionary upzoning policies will apply to a broad geography, and a broad range of development types, including new office and retail uses.**
- **Even under broad policies, jurisdictions may find it helpful to customize affordability standards and incentives for some neighborhoods.**



High Rise - Rental
Floor Area Ratio: 2.92 - Units Per Acre: 120 - Development Cost Per Unit: $689,850
120
Units
0%
Affordable
$6,463,50
Value Captu
Opportun
Cost
$82,782,029
Profit
$14,741,70
Project Value $97,523,732
17.8%
Profit
Feasibl
Save
Print
Overview
Adjust
Explore
Units
Rental
120
Construction Cost (SqFt)
$300
Affordable Units
0%
0%
Density Bonus
Average Market Rent
$4,000
Land Cost Per Acre
$25,000,000
Parking Ratio (Spaces/unit)
1.25
Parking Cost Per Space
$35,000
Primary AMI Level
60%
120%
100%
80%
60%
30%
Required Profit
10%
Cap Rate
4.50%
Area Median Income
$101,900
The project could be worth $97.5 million but it would only cost $82.8 million to develop - a profit of $14.7 million (18% profit).
Templates
Help
Strong Market
Low Rise Rental
Mid Rise Rental
High Rise Rental
Detached Homeownership
Low Rise Condo
Mid Rise Condo
High Rise Condo
Mixed Market
Soft Market
Other