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Inclusionary Housing in the United States: Prevalence, Impact, and Practices

Working Paper WP17ET1

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September 2017

Abstract

Inclusionary housing refers to any programs or policies that require or incentivize the creation of affordable housing when new development occurs, including impact or linkage fees that generate revenue for affordable housing. Through the most comprehensive investigation on inclusionary housing conducted to date, this study identifies 886 jurisdictions with inclusionary housing programs located in 25 states and the District of Columbia at the end of 2016. The vast majority of jurisdictions with inclusionary housing are located in New Jersey (45 percent), Massachusetts (27 percent), and California (17 percent). These places have state-wide inclusionary housing policies or state policies that promote the local adoption of inclusionary housing policies. Many jurisdictions reported having more than one inclusionary housing policy; a total of 1,379 were identified in 791 jurisdictions on which this information was available.

Although comprehensive data on impact and program characteristics was not available for the majority of programs, the study did find that 373 jurisdictions reported a total of $1.7 billion in impact or in-lieu fees for the creation of affordable housing. Jurisdictions also reported creating a total of 173,707 units of affordable housing, which predominantly excludes additional units created with the $1.7 billion in fees:

- 443 jurisdictions reported creating 49,287 affordable homeownership units;
- 581 jurisdictions reported creating 122,320 affordable rental units; and
- 164 jurisdictions reported an additional 2,100 affordable homes.

Due to missing data, these numbers substantially underestimate the total fees and units created by the entire inclusionary housing field.

Of the 273 inclusionary housing programs for which information on program characteristics was gathered, over 70 percent were developed after 2000, and 71 percent of programs applied to the entire jurisdiction. The most common program type was mandatory, and policies applied to both rental and for-sale development in 61 percent of programs. Approximately, 90 percent of all programs reported affordability terms of at least 30 years. The most common ways that developers could provide affordable housing was through on-site development in 90 percent of programs or through paying in-lieu fees or providing off-site affordable housing in roughly half of all programs. The most common incentives offered to developers were density bonuses (78 percent), other zoning variances (44 percent), or fee reductions or waivers (37 percent).

This study supports that inclusionary housing programs are an increasingly prevalent tool for producing affordable housing. Additionally, local inclusionary housing programs are: (1) prioritizing on-site affordable housing development, which may be an effective strategy to place affordable housing in neighborhoods of opportunity; and (2) ensuring long-term affordability, which is an effective way to maintain community assets and the affordable housing stock.

About the Authors

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About Grounded Solutions Network

Grounded Solutions Network supports strong communities from the ground up. We are a national nonprofit membership organization consisting of community land trusts, inclusionary housing programs, and nonprofits that support affordable housing that lasts. We provide our members and cities with training, technical assistance, program design and management resources, research, and advocacy opportunities. Grounded Solutions Network champions evidence-based policies and strategies that work. We promote housing solutions that will stay affordable for generations so communities can stabilize and strengthen their foundation, for good. We help our members, partners and elected officials use them to establish inclusive communities that have diverse housing options for a variety of incomes, offering choice and opportunity for all residents – both today and for future generations.

Acknowledgements

We would like to acknowledge Lisa Sturtevant and Robert Hickey for co-authoring the foundational report on which this study was built. An exorbitant amount of time went into tracking down contacts and recruiting survey responders, and we thank Florence Fleischer-Djoleto and Angela Richter for their help. Thank you to our colleagues, Sasha Hauswald, Rachel Silver, and Hong Ly who supported this project at various points along the way. Special thanks to Keith Henderson, Ann Verrilli, Bill Reyelt, and Rieko Hayashi for providing data on New

Jersey or Massachusetts and helping us to make sense of it. A group of inclusionary housing program staff piloted the survey and helped us improve the tool. We are extremely grateful to all of you. Finally, we express our thanks to every inclusionary housing practitioner who completed the survey. Inclusionary housing practitioners across the country are working incredibly hard to provide affordable housing and improve their communities. We appreciate you.

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Inclusionary Housing in the United States: Prevalence, Impact, and Practices

Introduction

As the affordability crisis has worsened across a substantial portion of the country, more and more cities are utilizing inclusionary housing policies as one way to create affordable housing. Traditionally, these land use policies incentivize or require developers to produce affordable housing or to pay a fee that will be used to create affordable housing when new development is built.

These policies hold promise as an effective local strategy for fostering inclusive communities, as affordable housing is often built on-site of the new development in areas that are rich—or quickly becoming rich—in opportunity (Jacobus 2015; Schwartz et al. 2012). However, less is known about this affordable housing tool than arguably any other affordable housing program or policy. The consequence is that policymakers, city staff, and stakeholders are uncertain about adopting the tool, or they are "reinventing the wheel" as they design inclusionary housing policies and implement them. While policies do need to be designed to fit the local environment, ample learning could occur from existing programs in order to bolster the efficiency and impact of policy design and implementation.

This study aims to significantly address gaps in knowledge on inclusionary housing programs in order to help inform the field, future public policy, and prospective research. The study built upon existing research (Hickey, Sturtevant, and Thaden 2014) by updating an inclusionary housing directory and conducting surveys and secondary data collection that aimed to answer the following questions:

(1) How many inclusionary housing programs exist and where are they located?
(2) What have these programs produced?
(3) What are the trends in program characteristics of inclusionary housing programs?

Background

Typically, the primary objectives of inclusionary housing programs are to increase the supply of affordable housing and to promote social and economic integration (Jacobus 2015; Schwartz 2012). The first inclusionary housing policies emerged outside of Washington, DC and San Francisco in the mid-1970s. As housing markets heated up in late 1990s and early 2000s, a growing number of local governments adopted policies in order to have developers help mitigate the consequences of their new development on the need for affordable housing (Calavita and Mallach 2009). Previous research, on which this study builds, identified 512 inclusionary housing programs in 487 jurisdictions throughout 27 states and the District of Columbia (Hickey, Sturtevant, and Thaden 2014). According to this directory, inclusionary housing programs are heavily concentrated in three states: New Jersey, California, and Massachusetts, accounting for nearly 80 percent of all programs.

Studies do support that inclusionary programs achieve the goal of promoting socioeconomic integration. Participants living in affordable inclusionary housing units tend to be in neighborhoods with higher opportunity, as measured by poverty rate, school performance, and racial diversity (Ellen and Horn 2012; Holmqvist 2009; Orfield 2005; Schwartz 2010). While inclusionary housing programs often serve higher income levels than many federal housing programs, the placement of affordable housing in opportunity-rich neighborhoods is a meaningful outcome of well-designed inclusionary housing programs (Schwartz et al. 2012).

Research on the production outcomes of inclusionary housing policies is fragmented and outdated. Researchers reviewing inclusionary housing policies internationally in 2010 had estimated between 129,000 and 150,000 affordable housing units in the United States, although this was not based upon a systematic empirical investigation (Mallach and Calavita 2010). Based upon a database of 145 inclusionary housing programs in California, it was estimated that all inclusionary housing programs in the state produced roughly 29,000 affordable housing units between 1999 and 2006 (Non-profit Housing Association of Northern California 2007). A survey of 52 inclusionary housing programs across the country—which heavily relied upon the same database in the aforementioned study of California—found that 60,000 affordable units had been produced over the lifetime of these programs (Rusk, Shirey, and Abel 2010).

Further research, predominantly conducted in the mid-2000s, has documented unit counts around various metropolitan areas. A total of 9,154 affordable units were documented in 55 jurisdictions around San Francisco from inception to the early 2000s (Schuetz, Meltzer, and Been 2009). Powell and Stringham (2008) estimated 6,379 affordable units within 13 cities in Los Angeles and Orange County in 2004. In five counties within the Washington DC region, 15,252 affordable units were produced up until 2008 (Schuetz, Meltzer, and Been 2009). Of those, 13,000 units were attributed to a Montgomery County, MD program (Department of Housing and Community Affairs 2011). Notably, many of these units were not preserved due to short-term affordability restrictions in the early decades of the program (Hickey, Sturtevant, and Thaden 2014).

Some additional research has documented the program characteristics of specific or small samples of inclusionary housing programs. A clear "take-away" from this body of work is the tremendous variation in policy and program design that is inherent to inclusionary housing (Hickey, Sturtevant, and Thaden 2014). Ultimately, inclusionary housing programs must consider local market conditions and balance the economic impacts of a policy against the desire to create affordable housing (Hollingshead 2015; Schuetz, Meltzer, and Been 2011). Many places opt to provide incentives to developers to help off-set the costs of affordable housing units (Jacobus 2015). Inclusionary housing programs also vary in their enforcement mechanism (mandatory or voluntary), targeted income groups, proportion of affordable housing needed to meet program requirements, applicable development type (e.g. rental or for-sale), and geographic application (e.g. county, city, certain neighborhoods). Some of the variation in local inclusionary housing programs is related to state policy, as the ability for local municipalities to implement an inclusionary housing policy rests with the authority granted (or at least not expressly prohibited) by the state (Hollister et al. 2007).

A limited number of studies have identified characteristics of impactful inclusionary housing programs. In terms of production, studies support that inclusionary housing programs that are mandatory, have greater local political will, and are in stronger markets, are likely to produce more affordable housing units (Brunick 2003; Levy et al. 2012; Mintz-Roth 2008; Mukhija et al. 2010). Additionally, a study of 20 inclusionary housing programs across the country identified a set of policy and program characteristics that are more likely to ensure that affordable housing created by inclusionary housing programs is retained over time as affordable housing (Hickey, Sturtevant, and Thaden 2014). Long-term affordability terms, shared equity homeownership models, and well-designed post-purchase stewardship of units are some critical components to ensure lasting affordability. Out of over 300 inclusionary housing programs, the study found that 80 percent of inclusionary housing policies that apply to rental and about 75 percent that apply to owner-occupied housing required at least 30-year affordability controls. Hence, local governments are opting to require longer periods of affordability than federal affordable housing programs. (For additional trends in inclusionary housing policy and program design, see Jacobus 2015.)

Ultimately, inclusionary housing programs are relatively complex and tailored to local conditions; however, very little is known about the prevalence of various program characteristics. Furthermore, previous research on the production and impact of inclusionary programs have been fragmented and based upon small samples. This study addresses these gaps by undertaking the largest study of inclusionary housing that has been conducted to date in order to explore the geographic and programmatic landscape and outcomes of inclusionary housing policies across the United States.

Methods

In this section, we first review the definition of "inclusionary housing" used in this study. Next, we summarize the original population of jurisdictions with inclusionary housing, followed by an explanation of survey design, survey administration, and secondary data collection. Lastly, we define the samples identified and utilized for this study.

Definition of Inclusionary Housing

In this study, we defined inclusionary housing broadly to capture any land use policies that result in the creation of affordable housing when development occurs. In particular, we wanted to capture information not only on inclusionary zoning policies, but also on fee-based policies (in-lieu fees and impact fees)[1]. The following definition was shared with survey responders twice before completing the survey:

[1] The rationale for impact fees, sometimes referred to as linkage fees, is that they mitigate the impact of commercial and/or residential development on the increased demand for affordable housing that will result from the development. The rationale for in-lieu fees is that a jurisdiction has a right to have affordable housing goals and require or incentivize developers to contribute to those goals, and a fee may be assessed in-lieu of providing affordable units.

Your jurisdiction has been identified as having one or more inclusionary zoning or impact fee programs. For simplicity's sake, we will refer to both types of programs as "inclusionary housing programs," which include any programs or policies that require or incentivize the creation of affordable housing when new development occurs, including impact or linkage fees that generate revenue for affordable housing. Please include:

- *policies that are mandatory or voluntary;*
- *policies with or without incentives;*
- *policies that apply to particular geographic areas or zoning categories;*
- *policies that yield affordable units on site within market-rate buildings, affordable housing units off site in a different location, or payments in-lieu of development;*
- *policies that generate fees from commercial development, residential development, or both;*
- *policies that are fee-based programs that offer developers the option to build units.*

Notably and accurately, the survey results illustrate that survey responders did not report project-by-project, ad-hoc negotiations with developers for the inclusion of affordable housing, as these are not formal land use policies or programs.

Original Population

In July 2014, the National Community Land Trust Network (which became Grounded Solutions Network in 2016) and the National Housing Conference published a directory of inclusionary housing programs. This was part of a joint research project, which also produced a working paper on how roughly 20 inclusionary housing programs preserved the affordability of homes they created (Hickey, Sturtevant, and Thaden 2014). The directory identified 512 inclusionary housing programs in 487 jurisdictions throughout 27 states and the District of Columbia. This information was pulled from previous research, secondary databases, and word of mouth. Consequently, a part of this project was to validate and update the database.

During 2015, the National Community Land Trust Network and Cornerstone Partnership identified and updated contact information for jurisdictions in the original database to administer the inclusionary housing survey in this study. During that time, an additional four jurisdictions with inclusionary housing programs were identified for a total of 516 jurisdictions. We gathered email addresses for primary contacts in 494 jurisdictions and for secondary contacts in 279 jurisdictions. In total, 498 of the 516 jurisdictions had at least one contact (96.5 percent of the population). Almost all the jurisdictions missing a contact were in New Jersey. Contact information was amended during data collection through survey responses and internet research to update the database.

After closer examination of the original database, however, we identified 26 jurisdictions that were redundant and one jurisdiction that did not exist. Consequently, we will refer to the original

database minus duplicates and the erroneous locale (n = 489) as the "original population," which is presented in table 1.[2]

Table 1: Original Population of Jurisdictions with Inclusionary Housing

State	Original Population
Alabama	
Alaska	
Arizona	
Arkansas	
California	150
Colorado	12
Connecticut	2
Delaware	1
Florida	4
Georgia	2
Hawaii	1
Idaho	
Illinois	6
Indiana	
Iowa	
Kansas	
Kentucky	
Louisiana	
Maine	1
Maryland	5
Massachusetts	57
Michigan	
Minnesota	1
Mississippi	
Missouri	
Montana	
Nebraska	
Nevada	
New Hampshire	1
New Jersey	180
New Mexico	1
New York	16
North Carolina	10
North Dakota	
Ohio	
Oklahoma	
Oregon	1
Pennsylvania	6
Rhode Island	11
South Carolina	
South Dakota	
Tennessee	2
Texas	1
Utah	1
Vermont	2
Virginia	5
Washington	8
Washington DC	1
West Virginia	
Wisconsin	
Wyoming	1
TOTAL	**489**

Survey Design and Administration

During the second part of 2015, staff at the National Community Land Trust Network and Cornerstone Partnership[3] designed the survey, piloted it with practitioners, and built the infrastructure for online administration.

The survey objective was to gather the following for each jurisdiction: (1) contact information for inclusionary housing practitioners; (2) the name and number of current inclusionary housing programs/policies; (3) the program characteristics of the two highest-producing programs; and (4) the total fees and unit counts for all programs since their inception.

[2] While we will refer to these 489 jurisdictions as the "original population" of jurisdictions with inclusionary housing programs, it is inevitable that previous and current research efforts overlooked some jurisdictions that should have been included in the population and counted a small number of jurisdictions that do not have inclusionary housing programs. One purpose of this project was to verify and update this information when possible.

[3] At the start of 2016, the National Community Land Trust Network and Cornerstone Partnership integrated to form Grounded Solutions Network, which is a national nonprofit membership organization of community land trusts, inclusionary housing programs, and other shared equity homeownership programs. Grounded Solutions Network's mission is to cultivate communities—equitable, inclusive and rich in opportunity—by advancing affordable housing solutions that last for generations.

Survey administration took place from March 3, 2016 to January 10, 2017. Survey administration was phased, whereby two requests to complete the survey were sent electronically to the primary contacts in our database. When emails were returned or automatic replies noted that an individual was no longer working for the jurisdiction, we identified new contacts for the jurisdiction and sent the request again. Then, we sent two email requests to complete the survey to the secondary contact and once again identified new staff when emails bounced back or staff had departed. At this juncture, researchers broke data collection into two assignments: (1) continue alternative strategies for survey administration; and (2) pursue missing data for incomplete surveys.

For the former, we sent out a personalized email appeal to jurisdictions that had not completed the survey. Then, we reviewed the missing data and identified anyone within our networks who might have connections to any of the jurisdictions. For instance, we connected with staff at some associations of governments or nonprofits that support multiple inclusionary housing programs, and we asked them to make an appeal to the jurisdictions with whom they worked. Some form of personalized outreach was conducted for every outstanding jurisdiction except those located in New Jersey.[4]

For the latter, researchers individually emailed or called the survey responder and/or associated contacts identified in the jurisdiction with specific information requests to address missing data. This was a rolling process that continued as additional surveys were submitted. Most frequently, survey responders could not or did not answer the total amount of fees and the total number of rental and homeownership units that were produced by their inclusionary housing programs[5].

In total, 143 jurisdictions submitted complete or partially complete surveys.

Secondary Data Collection

Beyond survey administration to program staff, researchers sought state-level secondary databases for states that were known to have enabling policies to promote the use of inclusionary housing policies. To increase the sample size, researchers also used online resources to gather information on the survey for additional jurisdictions.

[4] Over the course of survey administration, we realized that contacts within the database and online research was not yielding current contacts for New Jersey. We suspended data collection for these jurisdictions and decided to pursue secondary data collection for that state.

[5] A finding of this research was that many inclusionary housing programs do not comprehensively track the fees and units that have been produced by their inclusionary housing policies over time. HomeKeeper is a cloud-based app built on the Salesforce platform that some cities use to track their affordable housing portfolios and manage their inclusionary housing programs. In addition to centralizing data tracking efforts, HomeKeeper standardizes the way affordable housing programs measure outcomes, simplifies program reporting, and encourages effective home and homeowner stewardship practices. HomeKeeper is a program of Grounded Solutions Network.

State-level Data

Three states were known to have statewide policies that enable jurisdictions to use inclusionary housing policies[6]: California, Massachusetts, and New Jersey. The state policies are described in the Results section. Researchers contacted the appropriate offices in Massachusetts and New Jersey to request existing data and additional information on jurisdictions and to determine if they have utilized inclusionary housing policies to generate fees or affordable units. Unfortunately, there was no statewide data available for California.

New Jersey

For New Jersey, we made a public records request to the Department of Community Affairs. The New Jersey Department of Community Affairs provided two databases from the Council on Affordable Housing (COAH) Tracking and Monitoring System (CTM). One was a report pulled August 10, 2016 on the fees that each jurisdiction's housing trust fund (HTF) had collected since its inception (hereinafter "HTF database"). The second was a report pulled August 10, 2016 on each jurisdiction's affordable housing units produced by various programs/mechanisms (hereinafter "unit database").

There are some unknown factors related to the HTF database. First, the state authorized housing trust funds in 1992 to allow jurisdictions to gather fees from developers who: (1) did not produce units to meet inclusionary zoning obligations on development projects (in-lieu fees); or (2) were assessed impact fees to mitigate the impact of residential and/or commercial development (linkage or impact fees). Both of these fees meet the definition of inclusionary housing fees used in this study. However, a minority of jurisdictions (five to ten) may have contributed additional funds to the HTF from their general budgets or from a dedicated revenue source, which would not meet the definition of inclusionary housing.[7] Hence, the data may slightly overestimate fees from inclusionary housing policies.

Next, it is unknown when each jurisdiction established its HTF; therefore, it is difficult to discern the relative magnitude of the fee-based policies by jurisdictions and over time. Lastly, it is possible that many jurisdictions stopped reporting additional HTF fees collected after December 2014. This was the last required reporting time by COAH for jurisdictions prior to the court taking over for COAH in 2015.

The unit database is comprised of jurisdiction, project title, project status, affordable housing mechanism or program, unit counts by rental and homeownership, and area median income (AMI) levels. Unfortunately, the affordable housing mechanism or program categories in CTM are not consistent with the definition of inclusionary housing used for the survey. To decipher what mechanism or programs should be included, we interviewed staff from the Department of Community Affairs. We opted to include "inclusionary development," which is a category used

[6] Notably, after data collection was closed, Connecticut was identified as a state with an inclusionary housing policy that provides automatic approvals for projects, including 30 percent of affordable units for a minimum of 40 years within communities where less than 10 percent of housing is affordable (Zahalak 2017).
[7] Keith Henderson, Director of Policy and Planning, New Jersey Department of Community Affairs, personal communication, Sept 9, 2016.

to describe affordable housing produced on-site within new construction. We also include "accessory dwelling units" because this mechanism allowed lots to have zoning variances in return for the production of affordable housing. We also included "redevelopment" projects, which included projects where the underlying zoning for a project was changed in return for including some affordable housing units.

The unit database also has additional challenges to discern accurate unit counts by jurisdiction. Similar to the HTF database, it is unclear how many jurisdictions have continued to enter information in CTM after December 2014. It is also unknown when jurisdictions adopted inclusionary housing ordinances and when they started entering their data into CTM. Therefore, relative unit production by jurisdiction over time cannot be explored. Even before 2014, a significant amount of data is missing on unit production, especially by housing type and AMI level served. This is a result of municipal self-reporting that was not always as diligent as it could have been. Furthermore, we have no way of knowing whether there are additional projects, completed before or after 2015, that may be missing from the database.

Lastly, we are including projects with any project status (such as proposed/zoned, preliminary approval, final approval, or completed) only if units were reported. In most instances, these projects have likely been finished since the time they were entered. We exclude projects that were entered with no unit counts.

While this database does not precisely reflect our definition for inclusionary housing, and it undoubtedly has missing data, especially after 2015, it generally estimates the results of inclusionary housing policies in New Jersey. Out of the 565 jurisdictions in New Jersey, 401 jurisdictions had an inclusionary housing program (71 percent).

Massachusetts

After contacting the principal planner and program specialists in the Massachusetts Department of Housing and Community Development (DHCD), we received three datasets in December 2016. The first dataset is Chapter 40B subsidized housing inventory (SHI) listing all subsidized properties with affordable housing in the state. The second is a list of units generated through both the Local Action Unit (LAU) program and the Local Initiative Program (LIP). The third includes a list of Chapter 40R properties developed under the state's Smart Growth Zoning Overlay District Act. A supplementary dataset containing comprehensive permit projects was provided by Ann Verrilli from Citizens' Housing and Planning Association (CHAPA).

The SHI tracks the local stock of affordable housing for Chapter 40B monitoring and compliance, which is a state statute designed to increase affordable housing units in municipalities where less than 10 percent of the housing stock is affordable. The statute enables developers building housing with an affordable component to apply for a single comprehensive permit (that is, a more streamlined review process) from the local zoning authority. Through the comprehensive permitting process, a developer can override local zoning bylaws as needed for economic feasibility of the proposed development.

The SHI tracks a municipality's status relative to the 10 percent goal and includes all developments that meet the state's definition of "subsidized housing," including developments built without a comprehensive permit (that is, developments built prior to enactment of Chapter 40B, built in cities such as Boston with fewer barriers to affordable development, or involving the rehabilitation of existing housing).

To use the comprehensive permit process, a developer must propose a housing project that will have at least 20–25 percent of units in the development "subsidized" (priced and reserved for households with incomes at or below 80 percent of AMI under a program approved by the state), have long-term affordability restrictions, and meet affirmative marketing requirements. Developers must also agree to limit profits. For this study, developments with a comprehensive permit in SHI are considered inclusionary units because the affordable housing is voluntarily created in exchange for expedited review and waivers of land use restrictions, including density, which meets the study's definition of inclusionary housing. It is worth noting that the age of data varies in the SHI. Although DHCD requires updates from jurisdictions about every two years (the last update request was in 2014), communities submit updates in between as qualifying projects are approved, and some do not submit updates at all. Hence, unit counts from SHI are likely underestimates.

The SHI dataset contains information about whether a development used a comprehensive permit; therefore, we were able to identify comprehensive permit units from SHI. There are 220 local jurisdictions in Massachusetts with at least one comprehensive permit development.

The SHI dataset also contains information on the number of units that count toward the 10 percent goal per development, but in the case of mixed-income rental developments, it is not possible to know exactly how many of those units are affordable (income restricted) units. This is because both market-rate and affordable rental units count toward the 10 percent goal if at least 20–25 percent of the units in the development are "subsidized," while only affordable units in homeownership projects count toward that goal. The challenge of accurately counting inclusionary housing units in the SHI dataset is further exacerbated by missing data by tenure type, as some developments are reported to be mixed tenure without further breakdown of rental and homeownership units, and some do not identify tenure type.

This challenge was overcome by a supplementary dataset provided by CHAPA, which was built on a SHI dataset obtained from DHCD in January 2016. The supplementary dataset estimates the number of affordable rental and homeownership units in each development by checking comprehensive permit decisions and the affordable housing restrictions for each project. This dataset contains information about total units that are included in SHI, the number of affordable rental units, and the number of affordable homeownership units for each jurisdiction. To accurately estimate the number of affordable units with a comprehensive permit, we applied the percentages of affordable rental units and affordable homeownership units, derived from this dataset, to the comprehensive permit unit list we received from DHCD in December 2016.

The SHI also includes units developed under the LAU program, which is for affordable units developed without conventional state or federal subsidies, as well as without a comprehensive permit. The program allows eligible units to be counted even if they comprise less than 20–25

percent of a development. It is important to know that developments in LAU can be the result of local inclusionary housing policies, or they can be the result of just project-by-project, ad-hoc negotiations with developers for the inclusion of affordable housing. The LAU list, however, does not specify through which mechanism the units were created. In this regard, not all jurisdictions with LAUs necessarily have a local inclusionary program or policy; nor should all LAUs be counted as inclusionary housing units per this study's definition. On the other hand, some municipalities in Massachusetts have local inclusionary zoning programs that produce units, but they may not be included in the SHI because they do not meet affirmative marketing, income mix or long-term restriction requirements.

The combined LAU and LIP list we obtained from the state includes 1,993 affordable units in 144 localities. Since there is no information in the dataset that allows us to differentiate LAU from LIP, we removed LIP projects because they are already counted in the list of comprehensive permit developments in the SHI. This was accomplished by removing LIP projects from the LAU and LIP list with the same project name and town name as in the comprehensive permit list. As a result, 801 units were removed. There were 122 jurisdictions with LAU units included in this study.

Finally, affordable units produced through Chapter 40R are also counted toward inclusionary housing units because this state statute requires at least 20 percent of units in projects of 12 units or more within certain areas known as smart growth overlay districts to be affordable.

Taken together, of 351 municipalities in Massachusetts, 233 have at least one inclusionary housing unit that is generated by either a local or a state-level inclusionary housing policy.

Researcher-completed Surveys

Next, the researchers gathered secondary information from government websites and ordinances in order to fill in as much survey information as possible for any jurisdictions except for those in Massachusetts and New Jersey, since secondary data was gathered instead. Researcher-reported surveys were completed or partially completed for an additional 37 jurisdictions. Researchers also reached out to existing or newly identified contacts in these jurisdictions to request missing information.

Sample

In all, 143 jurisdictions submitted complete or partially completed surveys, and researchers completed or partially completed surveys for an additional 37 jurisdictions, for a total sample of 180 jurisdictions. Of those 180 jurisdictions, 12 reported that they do not currently have an inclusionary housing program, but seven reported their jurisdictions had a program in the past (see table 2).

Table 2: Survey Responders Reporting Jurisdiction Did Not Have an Inclusionary Housing Program at Time of Response

Never Had a Program	Used to Have a Program
Antioch, CA	Burlingame, CA*
Sherborn, MA	El Cerrito, CA*
Long Beach, NY	Mono County, CA*
Mount Joy, PA	Vista, CA*
Fauquier County, VA	Milton, GA
	Franklin, TN*
	Jackson, WY

* Reported that the programs did produce affordable homes.

Therefore, the final survey sample of jurisdictions with inclusionary housing programs in place at the time of data collection was 168 programs (hereinafter "survey sample"). In addition to the survey information are the jurisdictions in New Jersey (n = 401) and Massachusetts (n = 233) that were documented to have inclusionary housing programs. Of those, 11 jurisdictions in Massachusetts completed the survey for their inclusionary housing program(s). No jurisdictions in New Jersey completed the survey.

After removing duplicates in Massachusetts, the total sample of jurisdictions with inclusionary housing programs included in survey data or state-level secondary data is 791 (hereinafter referred to as "final sample").

Results

In this section, we will first review findings on the prevalence of inclusionary housing programs and the representativeness of the samples used for analyses. Next, we will review state-level policies to shed light on the prevalence of jurisdictions with inclusionary housing in California, Massachusetts, and New Jersey. Then, we will present the impact of inclusionary housing programs on the production of affordable housing units and fees, followed by program characteristics, including trends and comparisons.

Prevalence of Inclusionary Housing Programs and Representativeness of Samples

We will first review findings on the locations of jurisdictions with inclusionary housing programs. Then, we will present the number of programs by jurisdictions.

Jurisdictions

Based upon the original population, secondary data, and survey information, we estimate there are 886 jurisdictions located in 25 states and the District of Columbia with inclusionary housing programs (hereinafter "new population"). We did not find evidence of jurisdictions with inclusionary housing in New Hampshire or Wyoming, as listed in the original population. According to the new population, the vast majority of jurisdictions with inclusionary housing are

located in New Jersey (45.26 percent), Massachusetts (26.75 percent), and California (16.8 percent). There are 100 (11.17 percent) jurisdictions with inclusionary housing located outside of these three states.

We acknowledge that the total number of jurisdictions may be an overestimate. It is likely that more inclusionary housing programs were shut down or misidentified than the 12 jurisdictions noted in table 2. In particular, we expect that fewer programs exist in California because many jurisdictions rolled back mandatory policies that apply to rental development after the 2009 *Palmer* decision.[8] Due to the political, legal, and administrative turmoil in the state of New Jersey related to the Fair Housing Act and COAH, it is also possible that fewer jurisdictions in New Jersey are continuing to enforce inclusionary housing policies.[9] Due to the economic recession from 2007 to 2009, there is anecdotal evidence that some jurisdictions suspended or eliminated their inclusionary housing policies to promote real estate development, such as in Florida.

Alternatively, we are aware of at least a dozen jurisdictions that are currently exploring or recently adopted inclusionary housing policies, which would increase the number since data collection.[10] Based upon personal communication[11] or secondary sources (Zahalak 2017), we also suspect that jurisdictions with inclusionary housing in Connecticut and New York are underrepresented in the new population and both samples. In table 3, we present the original population of jurisdictions with inclusionary housing programs modified from Hickey, Sturtevant, and Thaden's research (2014); the new population based upon updated data collection from this study; the final sample of represented jurisdiction in this study's results; and the study's sample with survey data.

[8] Since 2009, California municipalities have suspended enforcement of their inclusionary zoning ordinances for rental housing development based on the Appellate Court ruling in *Palmer/Sixth Street Properties v. City of Los Angeles* (175 Cal. App. 4th. 1396). Technically, however, every jurisdiction in California has a voluntary inclusionary housing program per state law, which is reviewed below. Since there was no state-level data available to understand how many jurisdictions are implementing or yielding affordable housing from the state law, we opted to only count jurisdictions in California that are in the survey sample to establish the "New Population" presented in table 3.

[9] In 2011, New Jersey Governor Chris Christie set forth orders to eliminate the Council on Affordable Housing, which supported, monitored, and enforced jurisdictions to meet their obligations under the Fair Housing Act. In 2015, the court ruled to take over COAH for being out of compliance. Now, the only recourse is to litigate jurisdictions if they are not meeting their obligations.

[10] E.g. Miami Dade County, FL; New Orleans, LA; Baltimore, MD; Detroit, MI; Golden Valley, MN; Rochester, MN; St. Paul, MN; Shoreview, MN; Buffalo, NY; Philadelphia; PA; Pittsburgh, PA;

[11] Elkowitz, Peter, President and CEO of Long Island Housing Partnership, Inc., personal communication, September 19,2017.

Table 3: Original Population, New Population, Final Sample, Survey Sample

State	Original Population	New Population	% of New Population	Final Sample	% of Final Sample	Survey Sample	% of Survey Sample
Alabama							
Alaska							
Arizona							
Arkansas							
California	150	149	16.82%	83	10.49%	83	49.40%
Colorado	12	12	1.35%	8	1.01%	8	4.76%
Connecticut	2	2	0.23%	2	0.25%	2	1.19%
Delaware	1	1	0.11%	1	0.13%	1	0.60%
Florida	4	4	0.45%	2	0.25%	2	1.19%
Georgia	2	1	0.11%	1	0.13%	1	0.60%
Hawaii	1	1	0.11%	1	0.13%	1	0.60%
Idaho							
Illinois	6	6	0.68%	6	0.76%	6	3.57%
Indiana							
Iowa							
Kansas							
Kentucky							
Louisiana							
Maine	1	1	0.11%	1	0.13%	1	0.60%
Maryland	5	5	0.56%	5	0.63%	5	2.98%
Massachusetts	57	237	26.75%	233	29.46%	11	6.55%
Michigan							
Minnesota	1	1	0.11%				
Mississippi							
Missouri							
Montana							
Nebraska							
Nevada							
New Hampshire	1						
New Jersey	180	401	45.26%	401	50.70%		
New Mexico	1	1	0.11%	1	0.13%	1	0.60%
New York	16	18	2.03%	4	0.51%	4	2.38%
North Carolina	10	10	1.13%	9	1.14%	9	5.36%
North Dakota							
Ohio							
Oklahoma							
Oregon	1	1	0.11%	1	0.13%	1	0.60%

Pennsylvania	6	5	0.56%	4	0.51%	4	2.38%
Rhode Island	11	11	1.24%	9	1.14%	9	5.36%
South Carolina							
South Dakota							
Tennessee	2	1	0.11%	1	0.13%	1	0.60%
Texas	1	1	0.11%	1	0.13%	1	0.60%
Utah	1	1	0.11%	1	0.13%	1	0.60%
Vermont	2	2	0.23%	2	0.25%	2	1.19%
Virginia	5	4	0.45%	4	0.51%	4	2.38%
Washington	8	9	1.02%	9	1.14%	9	5.36%
Washington DC	1	1	0.11%	1	0.13%	1	0.60%
West Virginia							
Wisconsin							
Wyoming	1						
TOTAL	**489**	**886**	**100.00%**	**791**	**100.00%**	**168**	**100.00%**

* California has a state law stipulating a voluntary density bonus law for every county and municipality, which equals 540 jurisdictions. Unless we have survey data illustrating the application of the density bonus or other inclusionary housing policies, we have chosen to not include California jurisdictions in the new population because we do not know whether the jurisdiction is actively applying the law or whether the law has resulted in production of affordable housing. For more information, see the Results section on California.

As table 3 illustrates, New Jersey and Massachusetts are underrepresented in the survey sample due to bias introduced by relying upon state-level data, while California is substantially overrepresented. However, the final sample, which includes primary and secondary data for 791 jurisdictions, generally has good representation by state when compared to the New Population. The final sample has jurisdictions located in 24 states and the District of Columbia. The only state not represented in the final sample is Minnesota.[12] Additionally, the final sample underrepresents jurisdictions that were identified to have inclusionary housing programs in California and New York.

Programs

Within the final sample of 791 jurisdictions, 1,379 inclusionary housing programs were identified within 24 states and the District of Columbia (see table 4). For jurisdictions in Massachusetts, programs were operationalized as 40R, 40B, and LAU, and each was counted as a program if at least one unit was produced locally under these state policies. This fails to capture other local inclusionary housing programs that would fit the definition used within this study, and it treats state policies as local policies if they have yielded affordable units in a particular jurisdiction. Massachusetts accounts for 26.11 percent of all programs.

For jurisdictions in New Jersey, programs were operationalized as “inclusionary housing,” “accessory dwelling unit,” “redevelopment,” and “housing trust fund,” and each was counted as

[12] At the time of survey administration, Minneapolis, Minnesota was exploring the development of more robust inclusionary housing policies; therefore, they did not want their current program presented in this study.

a program if at least one unit or $.01 was reported by the jurisdiction. This overestimates the number of inclusionary housing policies in New Jersey, especially since the HTF may be funded by impact fees or in-lieu fees associated with one or more local policies. New Jersey accounts for 55.11 percent of all programs. If we only counted one program per jurisdiction in Massachusetts (n = 233) and New Jersey (n = 401), a conservative count of inclusionary housing programs would be 893 for the final sample.

For the survey sample, a total of 276 programs was reported for 168 jurisdictions; 17 of these programs were reported by Massachusetts jurisdictions that completed the survey (see asterisks in table 4 below), but table 4 presents data on those jurisdictions per the operationalization of programs explained above for secondary data on Massachusetts jurisdictions.

Approximately, one-third of the 168 jurisdictions (57.74 percent) in the survey sample reported having one inclusionary housing program; 26.19 percent had two programs; 9.52 percent had three programs; 3.57 percent had four programs, and 2.98 percent had five or more. Austin, Texas; Aspen, Colorado; and San Francisco, California, reported having more than five programs. These were operationalized as five programs in table 4 and to calculate the mean number of programs, which was 1.68.

Table 4: Number of Inclusionary Housing Programs by State and Jurisdiction (n = 791)

State & Jurisdiction	# of Programs	% of All Programs
California	***144***	***10.44%***
Alameda	3	0.22%
Albany	2	0.15%
Avalon	1	0.07%
Berkeley	3	0.22%
Brea	1	0.07%
Campbell	2	0.15%
Capitola	1	0.07%
Carlsbad	1	0.07%
Chula Vista	1	0.07%
Colma	1	0.07%
Concord	2	0.15%
Contra Costa County	1	0.07%
Cupertino	2	0.15%
Danville	1	0.07%
Davis	1	0.07%
Dublin	2	0.15%
East Palo Alto	3	0.22%
Elk Grove	1	0.07%
Emeryville	2	0.15%
Encinitas	1	0.07%
Fort Bragg	2	0.15%
Fremont	3	0.22%
Half Moon Bay	4	0.29%
Hayward	1	0.07%
Huntington Beach	2	0.15%
Irvine	2	0.15%
Lafayette	1	0.07%
Livermore	2	0.15%
Los Altos	2	0.15%
Marin County	1	0.07%
Menlo Park	2	0.15%
Mill Valley	3	0.22%
Milpitas	1	0.07%
Monterey	1	0.07%
Morgan Hill	2	0.15%
Mountain View	3	0.22%
Napa	1	0.07%
Napa County	3	0.22%
Nevada County	1	0.07%
Newark	1	0.07%
Oakland	2	0.15%

Oxnard	3	0.22%
Pacifica	2	0.15%
Palo Alto	1	0.07%
Pasadena	1	0.07%
Petaluma	2	0.15%
Pittsburg	3	0.22%
Pleasanton	3	0.22%
Redwood City	1	0.07%
Rohnert Park	1	0.07%
Roseville	1	0.07%
Sacramento	1	0.07%
Sacramento County	2	0.15%
Salinas	1	0.07%
San Bruno	2	0.15%
San Carlos	2	0.15%
San Diego	4	0.29%
San Francisco	5	0.36%
San Jose	1	0.07%
San Juan Bautista	1	0.07%
San Juan Capistrano	1	0.07%
San Leandro	1	0.07%
San Luis Obispo	1	0.07%
San Marcos	2	0.15%
San Mateo	1	0.07%
San Mateo County	1	0.07%
San Rafael	3	0.22%
Santa Barbara	1	0.07%
Santa Clara	1	0.07%
Santa Monica	2	0.15%
Santa Rosa	1	0.07%
Solana Beach	2	0.15%
Sonoma	1	0.07%
Sonoma County	2	0.15%
South San Francisco	2	0.15%
Sunnyvale	2	0.15%
Tiburon	1	0.07%
Tracy	1	0.07%
Truckee	3	0.22%
Tuolumne County	1	0.07%
Union City	1	0.07%
West Hollywood	3	0.22%
West Sacramento	1	0.07%
Colorado	***17***	***1.23%***
Aspen	5	0.36%
Boulder	2	0.15%
Denver	1	0.07%
Durango	1	0.07%
Eagle County	1	0.07%
Glenwood Springs	1	0.07%
Mt. Crested Butte	2	0.15%
Vail	4	0.29%
Connecticut	***2***	***0.15%***
Norwalk	1	0.07%
Stamford	1	0.07%
Delaware	***2***	***0.15%***
Sussex County	2	0.15%
Florida	***2***	***0.15%***
Palm Beach County	1	0.07%
Tallahassee	1	0.07%
Georgia	***1***	***0.07%***
Johns Creek	1	0.07%
Hawaii	***2***	***0.15%***
Maui County	2	0.15%
Illinois	***7***	***0.51%***
Arlington Heights	2	0.15%
Chicago	1	0.07%
Evanston	1	0.07%
Highland Park	1	0.07%
Lake Forest	1	0.07%
St. Charles	1	0.07%
Maine	***1***	***0.07%***
Portland	1	0.07%
Maryland	***7***	***0.51%***
Annapolis	1	***0.07%***
Frederick County	2	***0.15%***
Gaithersburg	1	***0.07%***
Montgomery County	2	***0.15%***
Rockville	1	***0.07%***

Massachusetts	***360***	***26.11%***
Abington	1	0.07%
Acton*	2	0.15%
Acushnet	1	0.07%
Adams	1	0.07%
Agawam	1	0.07%
Amherst	2	0.15%
Andover	2	0.15%
Aquinnah	1	0.07%
Arlington*	2	0.15%
Ashburnham	1	0.07%
Ashland	2	0.15%
Attleboro	2	0.15%
Auburn	1	0.07%
Ayer	2	0.15%
Barnstable	2	0.15%
Bedford*	2	0.15%
Bellingham	2	0.15%
Belmont*	1	0.07%
Berkley	1	0.07%
Berlin	1	0.07%
Beverly*	2	0.15%
Billerica	2	0.15%
Blackstone	1	0.07%
Bolton	1	0.07%
Bourne	2	0.15%
Boxborough	2	0.15%
Boxford	1	0.07%
Boylston	1	0.07%
Braintree	2	0.15%
Brewster	2	0.15%
Bridgewater	2	0.15%
Brockton	1	0.07%
Brookline	2	0.15%
Burlington	2	0.15%
Cambridge*	1	0.07%
Canton	2	0.15%
Carlisle	1	0.07%
Carver	2	0.15%
Centerville	1	0.07%
Charlton	1	0.07%
Chatham	2	0.15%
Chelmsford	2	0.15%
Chelsea	2	0.15%
Cohasset	1	0.07%
Concord	2	0.15%
Danvers	2	0.15%
Dartmouth	1	0.07%
Dedham	1	0.07%
Deerfield	1	0.07%
Dennis	2	0.15%
Dighton	2	0.15%
Douglas	1	0.07%
Dover	1	0.07%
Dracut	2	0.15%
Duxbury	2	0.15%
East Bridgewater	1	0.07%
East Longmeadow	1	0.07%
Eastham	2	0.15%
Easthampton	2	0.15%
Easton	3	0.22%
Edgartown	1	0.07%
Falmouth	2	0.15%
Fitchburg	2	0.15%
Foxborough	1	0.07%
Framingham	2	0.15%
Franklin	2	0.15%
Freetown	1	0.07%
Gardner	1	0.07%
Georgetown	2	0.15%
Gloucester	1	0.07%
Grafton	2	0.15%
Great Barrington	1	0.07%
Greenfield	1	0.07%
Groton	2	0.15%
Groveland	1	0.07%
Hadley*	1	0.07%
Hamilton*	2	0.15%
Hanover	2	0.15%
Hanson	1	0.07%

Harvard	1	0.07%
Harwich	2	0.15%
Haverhill	2	0.15%
Hingham	2	0.15%
Holbrook	1	0.07%
Holden	2	0.15%
Holliston	2	0.15%
Holyoke	1	0.07%
Hopkinton	2	0.15%
Hudson	2	0.15%
Hyannis	1	0.07%
Ipswich	2	0.15%
Kingston	2	0.15%
Lakeville	2	0.15%
Lancaster	2	0.15%
Lawrence	2	0.15%
Lee	1	0.07%
Leominster	1	0.07%
Lexington	2	0.15%
Lincoln	1	0.07%
Littleton	2	0.15%
Longmeadow	1	0.07%
Lowell	2	0.15%
Lunenburg	1	0.07%
Lynnfield	3	0.22%
Manchester	1	0.07%
Mansfield	2	0.15%
Marblehead	1	0.07%
Marion	1	0.07%
Marlborough	2	0.15%
Marshfield	2	0.15%
Mashpee	2	0.15%
Maynard	1	0.07%
Medfield	1	0.07%
Medford	2	0.15%
Medway	2	0.15%
Melrose	2	0.15%
Mendon	1	0.07%
Merrimac	1	0.07%
Methuen	1	0.07%

Middleborough	2	0.15%
Middleton	2	0.15%
Milford	1	0.07%
Millbury	2	0.15%
Millis	1	0.07%
Millville	1	0.07%
Milton	1	0.07%
Montague	2	0.15%
Nantucket	1	0.07%
Natick	3	0.22%
Needham	1	0.07%
New Bedford	1	0.07%
Newburyport	2	0.15%
Newton	2	0.15%
Norfolk	2	0.15%
North Andover	1	0.07%
North Attleborough	1	0.07%
North Brookfield	1	0.07%
North Reading	3	0.22%
Northampton	2	0.15%
Northborough	2	0.15%
Northbridge	1	0.07%
Norton	2	0.15%
Norwell	2	0.15%
Norwood	3	0.22%
Oak Bluffs	1	0.07%
Orleans	2	0.15%
Osterville	1	0.07%
Oxford	1	0.07%
Palmer	1	0.07%
Peabody	2	0.15%
Pembroke	1	0.07%
Pepperell	2	0.15%
Pittsfield	2	0.15%
Plainville	2	0.15%
Plymouth	2	0.15%
Plympton	1	0.07%
Princeton	1	0.07%
Provincetown	2	0.15%
Randolph	1	0.07%

Raynham	1	0.07%
Reading	3	0.22%
Revere	1	0.07%
Rockland	1	0.07%
Rockport	1	0.07%
Rowley	2	0.15%
Rutland	1	0.07%
Salem	1	0.07%
Salisbury	2	0.15%
Sandwich	2	0.15%
Saugus	2	0.15%
Scituate	2	0.15%
Seekonk	2	0.15%
Sharon	2	0.15%
Sheffield	1	0.07%
Shrewsbury	2	0.15%
Somerville	1	0.07%
South Hadley	1	0.07%
Southborough	2	0.15%
Southbridge	1	0.07%
Spencer	1	0.07%
Sterling	1	0.07%
Stockbridge	1	0.07%
Stoneham	1	0.07%
Stoughton	1	0.07%
Stow*	2	0.15%
Sturbridge	2	0.15%
Sudbury	2	0.15%
Sutton	2	0.15%
Swampscott	1	0.07%
Swansea	1	0.07%
Taunton	1	0.07%
Templeton	1	0.07%
Tewksbury*	2	0.15%
Tisbury	2	0.15%
Topsfield	1	0.07%
Townsend	2	0.15%
Truro	2	0.15%
Tyngsborough	1	0.07%
Upton	1	0.07%
Uxbridge	2	0.15%
Wakefield	2	0.15%
Walpole	1	0.07%
Waltham	2	0.15%
Ware	1	0.07%
Wareham	2	0.15%
Watertown*	2	0.15%
Wayland	2	0.15%
Wellesley	2	0.15%
Wellfleet	2	0.15%
Wenham	2	0.15%
West Boylston	2	0.15%
West Bridgewater	1	0.07%
West Newbury	1	0.07%
West Tisbury	1	0.07%
Westborough	1	0.07%
Westfield	1	0.07%
Westford	2	0.15%
Westhampton	1	0.07%
Westminster	1	0.07%
Weston	2	0.15%
Westport	2	0.15%
Westwood	1	0.07%
Weymouth	1	0.07%
Whately	1	0.07%
Wilbraham	1	0.07%
Williamsburg	1	0.07%
Williamstown	1	0.07%
Wilmington	2	0.15%
Winchester	2	0.15%
Woburn	2	0.15%
Worthington	1	0.07%
Wrentham	1	0.07%
Yarmouth	2	0.15%
New Jersey	***760***	***55.11%***
Aberdeen Twp	3	0.22%
Alexandria Twp	2	0.15%
Allamuchy Twp	2	0.15%
Allendale Boro	2	0.15%
Alpha Boro	1	0.07%

Alpine Boro	2	0.15%
Andover Boro	2	0.15%
Andover Twp	2	0.15%
Atlantic Highlands Boro	2	0.15%
Avalon Boro	1	0.07%
Barnegat Light Boro	2	0.15%
Barnegat Twp	1	0.07%
Bay Head Boro	1	0.07%
Bayonne City	2	0.15%
Beach Haven Boro	1	0.07%
Bedminster Twp	2	0.15%
Belleville Twp	2	0.15%
Belmar Boro	2	0.15%
Berkeley Heights Twp	2	0.15%
Berkeley Twp	2	0.15%
Berlin Boro	2	0.15%
Berlin Twp	1	0.07%
Bernards Twp	2	0.15%
Bernardsville Boro	3	0.22%
Bethlehem Twp	2	0.15%
Beverly City	1	0.07%
Blairstown Twp	2	0.15%
Bloomingdale Boro	1	0.07%
Bloomsbury Boro	1	0.07%
Bogota Boro	1	0.07%
Boonton Town	2	0.15%
Boonton Twp	1	0.07%
Bordentown City	1	0.07%
Bordentown Twp	1	0.07%
Branchburg Twp	2	0.15%
Branchville Boro	1	0.07%
Brick Twp	2	0.15%
Bridgewater Twp	3	0.22%
Brigantine City	1	0.07%
Burlington City	2	0.15%
Burlington Twp	2	0.15%
Byram Twp	2	0.15%
Califon Boro	1	0.07%

Camden City	1	0.07%
Cape May City	3	0.22%
Cape May Point Boro	2	0.15%
Carlstadt Boro	2	0.15%
Carneys Point Twp	2	0.15%
Cedar Grove Twp	1	0.07%
Chatham Boro	2	0.15%
Chatham Twp	2	0.15%
Cherry Hill Twp	2	0.15%
Chester Boro	3	0.22%
Chester Twp	2	0.15%
Chesterfield Twp	2	0.15%
Cinnaminson Twp	2	0.15%
Clark Twp	1	0.07%
Clayton Boro	2	0.15%
Clifton City	1	0.07%
Clinton Town	3	0.22%
Clinton Twp	2	0.15%
Closter Boro	2	0.15%
Collingswood Boro	1	0.07%
Colts Neck Township	4	0.29%
Commercial Twp	1	0.07%
Cranbury Twp	1	0.07%
Cranford Twp	2	0.15%
Cresskill Boro	4	0.29%
Delanco Twp	3	0.22%
Delaware Twp	3	0.22%
Delran Twp	3	0.22%
Demarest Boro	3	0.22%
Denville Twp	2	0.15%
Deptford Twp	2	0.15%
Dover Town	3	0.22%
Dumont Boro	1	0.07%
Dunellen Boro	1	0.07%
Eagleswood Twp	2	0.15%
East Amwell Twp	2	0.15%
East Brunswick Twp	2	0.15%
East Greenwich Twp	2	0.15%
East Hanover Twp	2	0.15%
East Orange City	1	0.07%

East Rutherford Boro	1	0.07%
East Windsor Twp	2	0.15%
Eatontown Boro	2	0.15%
Edgewater Boro	2	0.15%
Edgewater Park Twp	2	0.15%
Edison Twp	2	0.15%
Egg Harbor City	2	0.15%
Egg Harbor Twp	3	0.22%
Elk Twp	2	0.15%
Emerson Boro	2	0.15%
Englewood City	1	0.07%
Englewood Cliffs Boro	1	0.07%
Englishtown Boro	2	0.15%
Essex Fells Boro	1	0.07%
Evesham Twp	2	0.15%
Ewing Twp	2	0.15%
Fair Lawn Boro	2	0.15%
Fairfield Twp, Essex County	3	0.22%
Fanwood Boro	2	0.15%
Far Hills Boro	3	0.22%
Farmingdale Boro	1	0.07%
Flemington Boro	2	0.15%
Florence Twp	2	0.15%
Florham Park Boro	2	0.15%
Fort Lee Boro	4	0.29%
Frankford Twp	2	0.15%
Franklin Boro	1	0.07%
Franklin Lakes Boro	3	0.22%
Franklin Twp, Hunterdon County	2	0.15%
Franklin Twp, Somerset County	3	0.22%
Franklin Twp, Warren County	3	0.22%
Fredon Twp	1	0.07%
Freehold Boro	1	0.07%
Freehold Twp	1	0.07%
Frelinghuysen Twp	1	0.07%
Frenchtown Boro	3	0.22%

Galloway Twp	3	0.22%
Garwood Boro	1	0.07%
Gibbsboro Boro	1	0.07%
Glassboro Boro	2	0.15%
Glen Gardner Boro	1	0.07%
Glen Rock Boro	2	0.15%
Gloucester City	2	0.15%
Gloucester Twp	3	0.22%
Green Brook Twp	2	0.15%
Green Twp	3	0.22%
Greenwich Twp, Warren County	2	0.15%
Hackettstown Town	3	0.22%
Haddon Heights Boro	3	0.22%
Haddon Twp	1	0.07%
Haddonfield Boro	3	0.22%
Hainesport Twp	2	0.15%
Hamilton Twp, Atlantic County	2	0.15%
Hamilton Twp, Mercer County	2	0.15%
Hammonton Town	1	0.07%
Hampton Boro	1	0.07%
Hampton Twp	3	0.22%
Hanover Twp	2	0.15%
Harding Twp	2	0.15%
Hardwick Twp	1	0.07%
Hardyston Twp	2	0.15%
Harmony Twp	1	0.07%
Harrington Park Boro	2	0.15%
Harrison Town	2	0.15%
Harrison Twp	2	0.15%
Haworth Boro	1	0.07%
Hawthorne Boro	2	0.15%
Helmetta Boro	3	0.22%
High Bridge Boro	2	0.15%
Hightstown Boro	2	0.15%
Hillsborough Twp	2	0.15%
Hillsdale Boro	2	0.15%
Hoboken City	1	0.07%

Ho-Ho-Kus Boro	2	0.15%
Holland Twp	3	0.22%
Holmdel Twp	2	0.15%
Hopatcong Boro	2	0.15%
Hope Twp	1	0.07%
Hopewell Boro	2	0.15%
Hopewell Twp, Cumberland County	2	0.15%
Hopewell Twp, Mercer County	3	0.22%
Howell Twp	2	0.15%
Jackson Twp	3	0.22%
Jefferson Twp	1	0.07%
Jersey City	1	0.07%
Kearny Town	1	0.07%
Kingwood Twp	3	0.22%
Kinnelon Boro	2	0.15%
Knowlton Twp	2	0.15%
Lacey Twp	2	0.15%
Lafayette Twp	3	0.22%
Lambertville City	1	0.07%
Lawnside Boro	1	0.07%
Lawrence Twp, Mercer County	2	0.15%
Lebanon Boro	2	0.15%
Lebanon Twp	2	0.15%
Leonia Boro	1	0.07%
Lincoln Park Boro	2	0.15%
Linwood City	2	0.15%
Little Egg Harbor Twp	1	0.07%
Little Falls Twp	2	0.15%
Little Ferry Boro	2	0.15%
Little Silver Boro	3	0.22%
Livingston Twp	2	0.15%
Logan Twp	1	0.07%
Long Branch City	3	0.22%
Long Hill Twp	3	0.22%
Lopatcong Twp	2	0.15%
Lower Twp	1	0.07%
Lumberton Twp	2	0.15%
Lyndhurst Twp	1	0.07%
Madison Boro	1	0.07%
Mahwah Twp	2	0.15%
Manalapan Twp	2	0.15%
Manasquan Boro	1	0.07%
Manchester Twp	2	0.15%
Mansfield Twp, Burlington County	2	0.15%
Mansfield Twp, Warren County	2	0.15%
Mantua Twp	3	0.22%
Manville Boro	3	0.22%
Maple Shade Twp	1	0.07%
Maplewood Twp	3	0.22%
Marlboro Twp	3	0.22%
Medford Twp	2	0.15%
Mendham Boro	2	0.15%
Mendham Twp	1	0.07%
Merchantville Boro	1	0.07%
Metuchen Boro	2	0.15%
Middle Twp	2	0.15%
Middletown Twp	3	0.22%
Midland Park Boro	2	0.15%
Milford Boro	1	0.07%
Millstone Boro	1	0.07%
Millstone Twp	2	0.15%
Millville City	3	0.22%
Monmouth Beach Boro	1	0.07%
Monroe Twp, Gloucester County	2	0.15%
Monroe Twp, Middlesex County	3	0.22%
Montague Twp	2	0.15%
Montclair Twp	2	0.15%
Montgomery Twp	2	0.15%
Montvale Boro	2	0.15%
Montville Twp	2	0.15%
Moonachie Boro	1	0.07%
Moorestown Twp	2	0.15%

Morris Plains Boro	1	0.07%
Morris Twp	2	0.15%
Morristown Town	3	0.22%
Mount Arlington Boro	1	0.07%
Mount Ephraim Boro	1	0.07%
Mount Holly Twp	1	0.07%
Mount Laurel Twp	2	0.15%
Mount Olive Twp	4	0.29%
Mountain Lakes Boro	2	0.15%
Neptune City Boro	1	0.07%
Neptune Twp	3	0.22%
Netcong Boro	2	0.15%
New Brunswick City	1	0.07%
New Hanover Twp	2	0.15%
New Milford Boro	1	0.07%
New Providence Boro	2	0.15%
Newark City	1	0.07%
Newton Town	3	0.22%
North Arlington Boro	2	0.15%
North Brunswick Twp	2	0.15%
North Caldwell Boro	1	0.07%
North Haledon Boro	2	0.15%
North Hanover Twp	1	0.07%
North Plainfield Boro	1	0.07%
North Wildwood City	2	0.15%
Northvale Boro	2	0.15%
Norwood Boro	2	0.15%
Nutley Twp	1	0.07%
Oakland Boro	2	0.15%
Ocean City	1	0.07%
Ocean Twp, Monmouth County	1	0.07%
Ocean Twp, Ocean County	4	0.29%
Oceanport Boro	3	0.22%
Old Bridge Twp	2	0.15%
Old Tappan Boro	2	0.15%
Oldmans Twp	2	0.15%
Oradell Boro	2	0.15%
Orange City	1	0.07%
Oxford Twp	1	0.07%
Palmyra Boro	1	0.07%
Paramus Boro	2	0.15%
Park Ridge Boro	2	0.15%
Parsippany-Troy Hills Twp	2	0.15%
Paterson City	1	0.07%
Peapack-Gladstone Boro	1	0.07%
Pemberton Boro	2	0.15%
Pemberton Twp	2	0.15%
Pennington Boro	3	0.22%
Pennsauken Twp	1	0.07%
Pennsville Twp	2	0.15%
Pequannock Twp	2	0.15%
Perth Amboy City	1	0.07%
Pilesgrove Twp	1	0.07%
Pine Beach Boro	2	0.15%
Pine Hill Boro	1	0.07%
Piscataway Twp	2	0.15%
Pitman Boro	1	0.07%
Pittsgrove Twp	3	0.22%
Plainsboro Twp	2	0.15%
Pohatcong Twp	2	0.15%
Point Pleasant Boro	1	0.07%
Pompton Lakes Boro	1	0.07%
Princeton	3	0.22%
Ramsey Boro	2	0.15%
Randolph Twp	2	0.15%
Raritan Boro	2	0.15%
Raritan Twp	2	0.15%
Readington Twp	2	0.15%
Red Bank Boro	2	0.15%
Ridgefield Boro	1	0.07%
Ridgefield Park Village	2	0.15%
Ridgewood Village	1	0.07%

Ringwood Boro	2	0.15%
River Vale Twp	2	0.15%
Riverdale Boro	3	0.22%
Riverside Twp	1	0.07%
Riverton Boro	3	0.22%
Robbinsville Twp	2	0.15%
Rochelle Park Twp	3	0.22%
Rockaway Boro	1	0.07%
Rockaway Twp	2	0.15%
Rockleigh Boro	1	0.07%
Rocky Hill Boro	2	0.15%
Roseland Boro	2	0.15%
Roselle Park Boro	1	0.07%
Roxbury Twp	2	0.15%
Rumson Boro	3	0.22%
Rutherford Boro	2	0.15%
Saddle Brook Twp	2	0.15%
Saddle River Boro	1	0.07%
Sandyston Twp	2	0.15%
Scotch Plains Twp	2	0.15%
Sea Isle City	1	0.07%
Secaucus Town	2	0.15%
Shrewsbury Boro	2	0.15%
Somers Point City	2	0.15%
Somerville Boro	1	0.07%
South Brunswick Twp	2	0.15%
South Hackensack Twp	2	0.15%
South Harrison Twp	1	0.07%
South Orange Village Twp	2	0.15%
South Plainfield Boro	2	0.15%
Southampton Twp	2	0.15%
Sparta Twp	2	0.15%
Spring Lake Boro	1	0.07%
Spring Lake Heights Boro	1	0.07%
Springfield Twp, Burlington County	2	0.15%
Springfield Twp, Union County	4	0.29%
Stafford Twp	3	0.22%
Stanhope Boro	1	0.07%
Stillwater Twp	3	0.22%
Stockton Boro	1	0.07%
Stone Harbor Boro	2	0.15%
Stratford Boro	1	0.07%
Summit City	2	0.15%
Swedesboro Boro	3	0.22%
Teaneck Twp	2	0.15%
Tenafly Boro	3	0.22%
Teterboro Boro	1	0.07%
Tewksbury Twp	3	0.22%
Tinton Falls Boro	2	0.15%
Toms River Township	3	0.22%
Totowa Boro	1	0.07%
Trenton City	1	0.07%
Tuckerton Boro	2	0.15%
Union City	1	0.07%
Union Twp, Hunterdon County	2	0.15%
Union Twp, Union County	2	0.15%
Upper Freehold Twp	3	0.22%
Upper Pittsgrove Twp	3	0.22%
Upper Saddle River Boro	2	0.15%
Upper Twp	3	0.22%
Vernon Twp	1	0.07%
Verona Twp	1	0.07%
Vineland City	2	0.15%
Voorhees Twp	3	0.22%
Waldwick Boro	2	0.15%
Wall Twp	2	0.15%
Wallington Boro	2	0.15%
Wanaque Boro	3	0.22%
Wantage Twp	2	0.15%
Warren Twp	2	0.15%

Washington Boro	3	0.22%
Washington Twp, Bergen County	1	0.07%
Washington Twp, Gloucester County	2	0.15%
Washington Twp, Morris County	2	0.15%
Washington Twp, Warren County	2	0.15%
Watchung Boro	3	0.22%
Wayne Twp	2	0.15%
Weehawken Twp	2	0.15%
Wenonah Boro	2	0.15%
West Amwell Twp	2	0.15%
West Cape May Boro	2	0.15%
West Deptford Twp	1	0.07%
West Milford Twp	3	0.22%
West New York Town	1	0.07%
West Orange Twp	3	0.22%
West Windsor Twp	2	0.15%
Westampton Twp	2	0.15%
Westfield Town	1	0.07%
Westwood Boro	1	0.07%
Wharton Boro	2	0.15%
Wildwood Crest Boro	1	0.07%
Willingboro Twp	2	0.15%
Winslow Twp	2	0.15%
Woodbridge Twp	2	0.15%
Woodbury Heights Boro	1	0.07%
Woodcliff Lake Boro	2	0.15%
Woodland Park Borough	2	0.15%
Wood-Ridge Boro	2	0.15%
Woolwich Twp	2	0.15%
Wrightstown Boro	1	0.07%
Wyckoff Twp	2	0.15%
New Mexico	***1***	0.07%
Santa Fe	1	0.07%

New York	***8***	0.58%
Brookhaven	1	0.07%
Great Neck Plaza	2	0.15%
New York City	2	0.15%
Tarrytown	3	0.22%
North Carolina	***11***	0.80%
Asheville	2	0.15%
Black Mountain	1	0.07%
Carrboro	1	0.07%
Chapel Hill	1	0.07%
Charlotte	1	0.07%
Davidson	2	0.15%
Durham	1	0.07%
Manteo	1	0.07%
Winston-Salem	1	0.07%
Oregon	***4***	***0.29%***
Ashland	4	0.29%
Pennsylvania	***4***	***0.29%***
College Township	1	0.07%
Ferguson	1	0.07%
Harris	1	0.07%
Patton	1	0.07%
Rhode Island	***9***	***0.65%***
Barrington	1	0.07%
Bristol	1	0.07%
East Greenwich	1	0.07%
Exeter	1	0.07%
Hopkinton	1	0.07%
Jamestown	1	0.07%
Narragansett	1	0.07%
North Kingstown	1	0.07%
Richmond	1	0.07%
Tennessee	***2***	***0.15%***
Nashville	2	0.15%
Texas	***5***	***0.36%***
Austin	5	0.36%
Utah	***1***	***0.07%***
Park City	1	0.07%
Vermont	***3***	***0.22%***
Burlington	2	0.15%

Hinesburg	1	0.07%
Virginia	***7***	***0.51%***
Arlington County	3	0.22%
Fairfax County	2	0.15%
Loudoun County	1	0.07%
Virginia Beach	1	0.07%
Washington	***17***	***1.23%***
Bellevue	1	0.07%
Issaquah	1	0.07%
Kenmore	4	0.29%

King County	1	0.07%
Kirkland	1	0.07%
Mercer Island	2	0.15%
Redmond	1	0.07%
Sammamish	1	0.07%
Seattle	5	0.36%
Washington DC	***2***	***0.15%***
District of Columbia	2	0.15%
TOTAL	***1379***	***100.00%***

State-Level Policies

The design and application of state-level policies that require or enable inclusionary housing are described below for California, New Jersey, and Massachusetts.

California

California has two state laws that influence the adoption and implementation of inclusionary housing. The housing element law is not and does not require inclusionary housing programs, but this state-level planning and reporting requirement promotes transparency and local housing policies and programs that advance housing for all residents.

The density bonus law meets the definition of inclusionary housing used in this study, so technically every county and municipality in California has (or should have) an inclusionary housing program (CA Government Code 1979). It is unknown how many jurisdictions do not comply with the law and do not have a local ordinance. There are 58 counties and 482 municipalities. However, few survey responders reported the state density bonus law as one of their inclusionary housing programs, even if they had a local ordinance for its implementation. Subsequently, California's density bonus is only discussed here and presented in survey results for responders who opted to list it as an established policy.

Worth noting, California also has laws that have hindered the implementation and scope of inclusionary housing policies. In *Palmer/Sixth Street Properties v. City of Los Angeles* in 2009, the Appellate Court ruled that California municipalities cannot have mandatory inclusionary zoning ordinances for rental housing development, which was deemed an illegal form of rent control.

Housing Element Law

Since 1969, California has required that all local governments, including cities and counties, plan to meet the housing needs of everyone in the community. Local governments meet this requirement by adopting housing plans as part of their general plan, which is required by the state. General plans act as the roadmap for how the city and/or county will develop on seven

elements: land use, transportation, conservation, noise, open space, safety, and housing. The law mandating housing as an element of each jurisdiction's general plan is known as the housing-element law (CA Government Code 1967).

The California Department of Housing and Community Development (HCD) reviews and approves local government's housing element, which must be updated every five or eight years. With the input of each region's Council of Governments (COG), HCD conducts the regional housing needs assessment by income levels to decide the amount of housing that must be planned for in the housing elements, and COG allocates the housing needs for which each local government will be responsible in a Regional Housing Need Allocation Plan. Annual progress reports are submitted to HDC by each local government.

Density Bonus Law

The state of California passed a density bonus law (CA Government Code 1979) in 1979. Jurisdictions are required to adopt an ordinance specifying how the local government will comply with this law. The law requires local governments to provide density bonuses and other incentives to developers of: (1) affordable housing for very low-, low-, and moderate-income households; (2) senior housing; (3) transitional housing for youth from foster care, veterans, or the homeless; (4) developments that include child care centers, and (5) particular land donations. The density bonus applies to residential projects of five or more units.

Very low- or low-income affordable rental units must be kept affordable for at least 55 years. Moderate-income units must be for-sale homes in order to comply with the density bonus law. Owner-occupied units must use an equity-sharing agreement. The difference between the affordable purchase price and the fair market value of the property (that is, the local government's initial subsidy) shall be recaptured upon resale, along with part of the appreciation, which will be proportional to the local government's initial subsidy relative to the fair market value.

A jurisdiction must provide a density bonus and concessions or incentives will be granted at the applicant's request based on specific criteria. Concessions or incentives include: (1) a reduction in site development standards or a modification of zoning code requirements or architectural design requirements (for example, reduction in setbacks or parking); (2) approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development; and (3) other regulatory incentives or concessions that reduce cost to provide for affordable housing costs.

Table 5: Target Group, Required Affordable Units for Density Bonus, and Number of Concessions or Incentives to Be Granted

Target Group*	Target Units	Density Bonus	# of Concessions or Incentives
Very Low Income[(1)]	5%	20%	1
	10%	33%	2
	15% or above	35%	3
Lower Income[(2)]	10%	20%	1
	20%	35%	2
	30% or above	35%	3
Moderate Income [(3)] (condominium or planned development)	10%	5%	1
	20%	15%	2
	30% or above	25%	3

* California Civil Code Section 65915 applies only to proposed developments of five (5) or more units.
[(1)] For each 1 percent increase over 5 percent of the Target Units the Density Bonus shall be increased by 2.5 percent up to a maximum of 35 percent
[(2)] For each 1 percent increase over 10 percent of the Target Units the Density Bonus shall be increased by 1.5 percent up to a maximum of 35 percent
[(3)] For each 1 percent increase over 10 percent of the Target Units the Density Bonus shall be increased by 1 percent up to a maximum of 35 percent
[Reproduced from 21 Elements (June 18, 2013) State Density Bonus Law. San Mateo: San Mateo County Department of Housing and the City/County Association of Governments of San Mateo County]

For senior housing or transitional housing, the density bonus shall be 20 percent of the number of those units within the development. Transitional housing must be affordable at very low-income levels. Developers may also donate land and be granted a 15 percent density bonus so long as the land is within a quarter mile of the proposed development. The land must be zoned appropriately to produce at least 10 percent of the developable units as very low-income units and the acreage must allow for at least 40 units. For each 1 percent increase over the 10 percent of the affordable units to very low-income households, the density bonus shall increase by 1 percent up to a maximum of 35 percent. Deed restrictions shall restrict the affordability of units for at least 55 years.

For child care facilities within residential or mixed-use developments, the density bonus shall be equal to or greater than the square footage of the child care facility within the development or the jurisdiction may grant an additional concession or incentive that contributes to the economic feasibility of the child care facility.

Unfortunately, the state of California does not require local governments to report on the use and impact of the density bonus law. Only 20 out of the 83 California jurisdictions in the Survey Sample listed a density bonus program. Three of those jurisdictions reported only having a density bonus program: Milpitas, Santa Clara, and Tracy. It is possible that many other jurisdictions do have a density bonus policy in accordance with state law but did not report it on their surveys. This most likely occurred because respondents were thinking only of local policies or because the state density bonus policy is not producing affordable housing. The jurisdictions

that reported on the density bonus are included in the survey findings (See Program Characteristics section).

New Jersey

The New Jersey Supreme Court declared in *Southern Burlington County N.A.A.C.P. v. Mount Laurel Township* (commonly called *Mount Laurel I*), 67 N.J. 151 (1975), and *Southern Burlington County N.A.A.C.P. v. Mount Laurel Township* (commonly called *Mount Laurel II*), 456 N.J. A.2d 390 (1983), that municipal land use regulations that prevent affordable housing for lower income individuals and families are unconstitutional. Not only did the court prohibit exclusionary zoning, but it mandated that municipalities take affirmative action to provide the locality's fair share of affordable housing for low- and moderate-income households. The Mount Laurel doctrine is widely regarded as one of the most significant civil rights cases in the United States since *Brown v. Board of Education* in 1954.

Following the Mount Laurel decisions, the state legislature enacted the Fair Housing Act in 1985, which established the Council on Affordable Housing (COAH) to evaluate the statewide need for affordable housing, allocate that need and fair share targets for municipalities, review and approve municipal housing plans for meeting fair share obligations, and support municipalities during planning and implementation.

In 2010, Governor Chris Christie suspended COAH and began the process to dissolve it and move its functions to the executive branch, which would make the implementation of the Fair Housing Act more vulnerable to political winds and conflict of interest. The state Supreme Court ruled that this was not within his power and ordered COAH to develop their third round of regulations for developing affordable housing and fair share requirements. In 2014, COAH failed to meet the deadline for the regulations set forth by the court. In the absence of action by the state, the court ruled in March 2015 that determination of affordable housing obligations would be administered by the court. At the end of 2014, COAH required jurisdictions—for the last time under their authority—to update all of their data in the system.

While the Mount Laurel doctrine and Fair Housing Act in New Jersey do not require inclusionary housing policies or programs in local municipalities, the fair share requirement has prompted the vast majority of jurisdictions to adopt one or more inclusionary housing programs as defined within this study (see Impact section).

Massachusetts

Chapter 40B is a Massachusetts law (M.G.L. c. 40B, §§ 20-23) enacted in 1969 to address exclusionary zoning statewide that prevented the development of low- and moderate-income housing, which was subsidized under federal or state programs. The goal of this state statute is to make at least 10 percent of housing stock in each community affordable for moderate-income households. As of 2014, 48 out of 351 communities had met this goal.

Chapter 40B allows developers to apply to the municipal zoning authority for a comprehensive permit on a for-sale development, as long as 25 percent of the units or more will be affordable to

households at 80 percent of AMI; or on a rental development, as long as 20 percent of units or more are affordable to households at 50 percent of AMI. The proposed development must first receive a project eligibility letter from a subsidizing agency. Then, the project is reviewed by the local Zoning Board of Appeals (ZBA) through a comprehensive permit. For example, under Chapter 40B, the ZBA can approve a project with greater density to make it financially feasible to develop affordable housing.

In municipalities where less than 10 percent of the municipality's year-round housing meets the state definition of subsidized (and alternative standards are not met), developers can appeal an unfavorable local decision (denials or the imposition of economically infeasible requirements) to the State Housing Appeals Committee (HAC), and the HAC can order issuance of the permit. Developers can use the comprehensive permit process in municipalities above 10 percent but cannot appeal unfavorable decisions to the HAC.

Department of Housing and Community Development (DHCD) maintains Subsidized Housing Inventory (SHI) to determine if a community meets the affordable housing goal under Chapter 40B. The statutory definition of low- and moderate-income housing is "any housing subsidized by the federal or state government under any program to assist the construction of low- or moderate-income housing." This definition effectively dis-incentivized communities to undertake local housing initiatives that did not require any financial subsidy from federal or state sources. In response, the legislature directed DHCD to create the Local Initiative Program (LIP) in 1990.

LIP allows DHCD to provide technical assistance that qualifies as a subsidy, thereby allowing developers access to comprehensive permits without using federal and state subsidies. In other words, LIP allows developers to apply for comprehensive permits for projects developed solely with local resources (for example, a density bonus granted under the comprehensive permit). Unlike other subsidy programs, however, LIP can only be used for a comprehensive permit if municipal officials approve the concept in advance. Under LIP, DHCD provides technical support to both the local government and the developer, and it reviews certain aspects of the project such as income limits, fair marketing, return-on-investment limitations, and long-term affordability for the units. In addition, DHCD is responsible for issuing the project eligibility letter for a project.

Local Action Units (LAUs) are an offshoot of the LIP that gives communities the opportunity to include housing units in the SHI that were built without a comprehensive permit. Thus, LAUs meet LIP criteria except for one aspect: while LIP projects use comprehensive permitting, LAU projects do not.

In 2004, the legislature passed the Smart Growth Zoning Overlay District Act (M.G.L. c. 40R), which encourages communities to create smart growth districts. These districts shall include at least 20 percent of affordable housing units to households at or below 80 percent of area median income, and be located in areas where the combined housing and transportation costs are relatively low. Known as the Chapter 40R program, this state statute requires that affordable housing is placed in all smart growth zoning districts with affordability periods that are no less than 30 years. DHCD is the regulatory agency and administers the program. Chapter 40

regulations were updated in 2013. A major update is the definition of area of concentrated development, which is used to guide the creation of smart growth zoning districts.

All three state policies—Chapter 40B, LIP, and Chapter 40R—require participating projects to set aside a portion of units with long-term affordability. They all meet the definition of inclusionary housing program in this study.

Impact

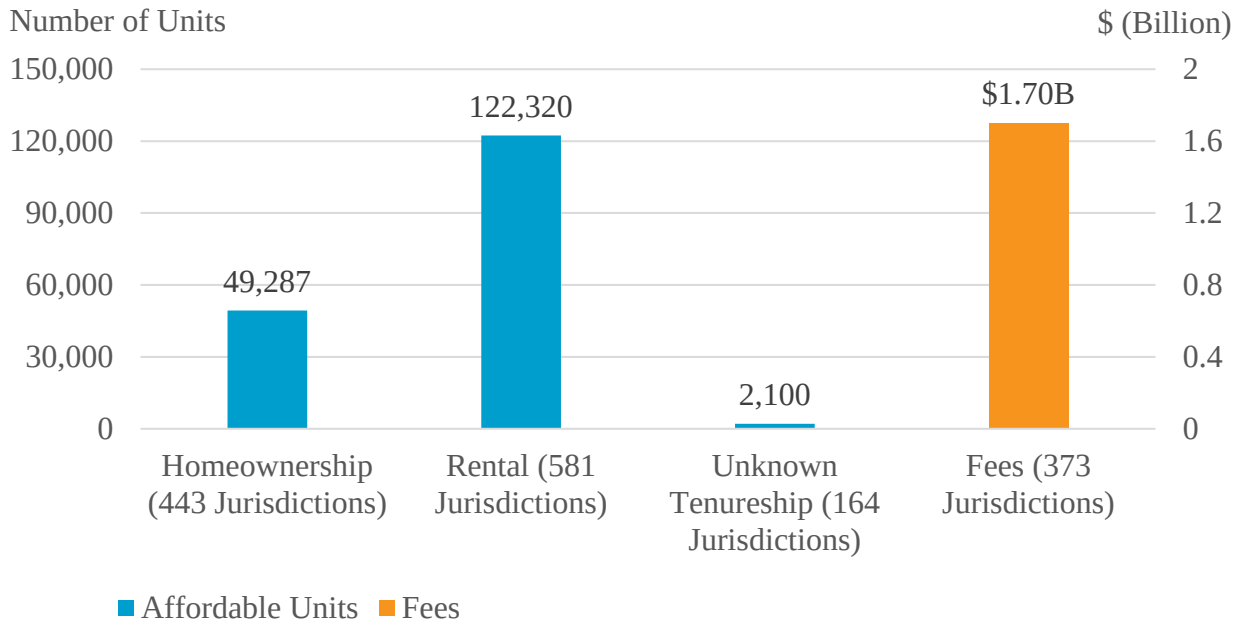
Information on the impact of inclusionary housing programs was collected from both the survey and secondary data sources. Survey questions about fees collected and units produced were often left unanswered, as responders did not know the answers, and it would have been a lengthy process to track down estimates or the jurisdiction had not adequately tracked production. This is an inherent problem in the field, which warrants attention by practitioners and policy makers. After all, it is impossible to assess the use of a policy if basic outcome data is not being tracked.

Despite the challenges with missing data, 373 jurisdictions reported a total of $1.7 billion in impact or in-lieu fees for the creation of affordable housing. Appendix A presents fees and unit counts by jurisdiction for the survey sample. Appendix B presents this information for New Jersey jurisdictions. Appendix C presents this information for Massachusetts jurisdictions. Jurisdictions also reported creating a total of 173,707 units of affordable housing, which almost entirely excludes additional units created with the $1.7 billion in fees:

- 443 jurisdictions reported creating 49,287 affordable homeownership units;
- 581 jurisdictions reported creating 122,320 affordable rental units; and
- 164 jurisdictions reported an additional 2,100 affordable homes.

These numbers substantially underestimate the total fees and units created by the entire inclusionary housing field, since only a proportion of the programs are represented. For information that varies by data source (for example, survey versus state-level databases), we present additional information on fees and unit counts by various subsamples.

Figure 1: Fees, Rentals, and Homeownership Units Produced by Inclusionary Housing Programs



Survey Sample

To establish the various fees and units reported amongst survey responders and secondary data sources, we removed the responses of 11 jurisdictions in Massachusetts to prevent duplicating state-level data. This resulted in a potential sample of 157 jurisdictions; but as previously mentioned, ample data was missing. Of those, 83 jurisdictions (or 53 percent) were in California. Table 6 presents the total fees, rental units, and homeownership units and the number of respective jurisdictions that reported greater than zero for each variable.

Table 6: Total Inclusionary Housing Fees and Units Among Survey Sample Reporting Greater than Zero Units or Fees (n = 158)

Production	# Jurisdictions	Total Units or Fees	Mean	Median	Minimum	Maximum
Rental Units	81	77,788	960	410	1	14,731
Homeownership Units	81	29,094	359	87	3	9,561
Total Units	**95**	**106,882**	**1,125**	**380**	**1**	**15,038**
HTF $	**58**	**$1,002,764,305**	**$17,289,040**	**$2,062,685**	**$26,550**	**$141,533,538**

Of the 157 jurisdictions, 63 jurisdictions did not provide information on fees collected, and 36 reported that no fees had been collected. Only 58 jurisdictions accounted for $1 billion in fees

collected, and 34 of those jurisdictions were in California and accounted for 61 percent of all collected fees reported in the survey sample. The largest producer of fees was San Diego, California.

Of the 157 jurisdictions, 46 did not provide information on rental units created, and 30 jurisdictions reported no rental units had been created. Only 81 jurisdictions produced the 77,788 affordable rentals; of those, 67 percent of units were in 42 jurisdictions in California. The largest producer of affordable rental units was San Diego, California.

Of the 157 jurisdictions, 45 did not provide information on homeownership units created, and 31 jurisdictions reported no homeownership units had been created. Only 81 jurisdictions produced the 29,094 affordable ownership units; of those, 26 percent of units were in 45 jurisdictions in California. The largest producer of affordable homeownership units was Montgomery County, Maryland.

New Jersey

Of the 565 jurisdictions in the state of New Jersey, 401 reported money within a housing trust fund or units produced from inclusionary housing policies (see Appendix B). As explained in the Methods section, housing trust funds in New Jersey have been predominantly funded by in-lieu fees and impact fees from inclusionary housing policies. For housing trust funds, 315 jurisdictions reported a total of $697,450,002 collected. For inclusionary housing units, 347 jurisdictions reported a total of 34,631 units. Of the 401 jurisdictions with either inclusionary housing units or fees, 251 jurisdictions reported having both. Table 7 presents descriptive statistics of fees and units by type of unit for jurisdictions that reported greater than zero units or fees.

Table 7: Inclusionary Housing Fees and Units for New Jersey Jurisdictions Reporting Greater than Zero Units or Fees

Production	# Jurisdictions	Total Units or Fees	Mean	Median	Minimum	Maximum
Rental Units	296	18,193	61	29	1	571
Homeownership Units	204	15,623	77	39	1	556
Unknown Units	40	821	21	10	1	120
Total Units	**347**	**34,631**	**100**	**50**	**1**	**1,087**
HTF $	**315**	**$697,450,002**	**$2,214,127**	**$650,166**	**$1**	**$22,065,028**

The inclusionary housing policies include three categories in the state database: (1) “inclusionary development,” which is a category used to describe affordable housing produced on-site within new construction; (2) “accessory dwelling units” because this mechanism allowed lots to have zoning variances in return for the production of affordable housing; and (3) “redevelopment” projects, which included projects where the underlying zoning for a project was changed in return for including some affordable housing units. Table 8 presents the number of units

produced for each category and descriptive statistics for jurisdictions that had at least one unit in the category.

Table 8: Inclusionary Housing Units by Policy Category in New Jersey Jurisdictions Reporting Greater than Zero Units

Category	# Jurisdictions	# Units	Mean	Median	Minimum	Maximum
Inclusionary Development	287	30,008	105	54	1	942
Redevelopment	59	3,597	61	41	3	276
Accessory Dwelling	99	1,026	10	10	1	52
Total Units	**347**	**34,631**	**100**	**50**	**1**	**1,087**

The database with unit information was organized by development. The 34,631 units in 347 jurisdictions existed within 1,165 development projects.

Massachusetts

Of 351 municipalities in Massachusetts, 233 had at least one inclusionary housing unit that was generated by either a local or a state-level inclusionary housing policy (see Appendix C). We were not able to gather state-level data on fees. These 233 jurisdictions in total produced 32,188 units, of which 26,339 (82 percent) were rental units, 4,570 (14 percent) were homeownership units, and 1,279 (4 percent) units that were either rental or homeownership. Table 9 presents descriptive statistics for units by tenure.

Table 9: Inclusionary Housing Units for Massachusetts Jurisdictions Reporting Greater than Zero Units

Tenure	# Jurisdictions	# Units	Mean	Median	Minimum	Maximum
Rental Units	204	26,339	129	98	1	634
Homeownership Units	158	4,570	29	16	1	316
Unknown Units	124	1,279	10	6	1	61
Total Units	**233**	**32,188**	**138**	**100**	**1**	**657**

Table 10 presents descriptive statistics for units by policy category. Four categories were identified: (1) “40B CP Units,” which include comprehensive permit developments in SHI with federal and/or state subsidies; (2) “40R Units,” which contain all affordable units developed under Chapter 40R; (3) “LAUs,” which include affordable units generated through the LAU program; and (4) “LIP Units,” which include units in developments with only local subsidies generated through the LIP program that uses the comprehensive permit process.

Although LAUs are known as a program component of LIP, they are grouped into separate categories here because, as mentioned earlier, while LIP projects use comprehensive permitting, LAU projects do not. There were 29,107 40B comprehensive permit units in 219 jurisdictions.

The Chapter 40R project list contained 25 developments in 18 jurisdictions, totaling 1,088 affordable units. For LAUs, 1,192 units were located in 69 jurisdictions. A total of 801 LIP units were found in 69 jurisdictions.

Table 10: Inclusionary Housing Units by Policy Category in Massachusetts Jurisdictions Reporting Greater than Zero Units

Category	# Jurisdictions	# Units	Mean	Median	Minimum	Maximum
40B CP Units	219	29,107	133	100	1	657
40R Units	18	1,088	60	53	3	148
LAUs	122	1,192	10	6	1	61
LIP Units	69	801	12	9	1	46
Total Units	**233**	**32,188**	**138**	**100**	**1**	**657**

Note: Not all LAUs are inclusionary housing units as described in the Method section. The total number of inclusionary housing units is therefore slightly overestimated. CP: Comprehensive permit.

Program Characteristics

To explore inclusionary housing program characteristics, we analyzed the survey sample, which included information submitted by practitioners and surveys completed by researchers. The sample includes 273 programs in 24 states and District of Columbia (see table 11). This varies from the number of programs identified in the survey data because three inclusionary housing programs in Austin, Texas were missing information on program characteristics. This data significantly underrepresents Massachusetts and New Jersey since almost all the information for these states came from public data sets that did not capture program characteristics.

Table 11: Number of Inclusionary Housing Programs with Survey Data by State

State	Number of Programs	% of Programs
California	144	52.75%
Colorado	17	6.23%
Connecticut	2	0.73%
Delaware	2	0.73%
Florida	2	0.73%
Georgia	1	0.37%
Hawaii	2	0.73%
Illinois	7	2.56%
Maine	1	0.37%
Maryland	7	2.56%
Massachusetts	17	6.23%
New Jersey	0	0%
New Mexico	1	0.37%
New York	8	2.93%

North Carolina	11	4.03%
Oregon	4	1.47%
Pennsylvania	4	1.47%
Rhode Island	9	3.30%
Tennessee	2	0.73%
Texas	2	0.73%
Utah	1	0.37%
Vermont	3	1.10%
Virginia	7	2.56%
Washington	17	6.23%
Washington DC	2	0.73%
Total	**273**	**100.00%**

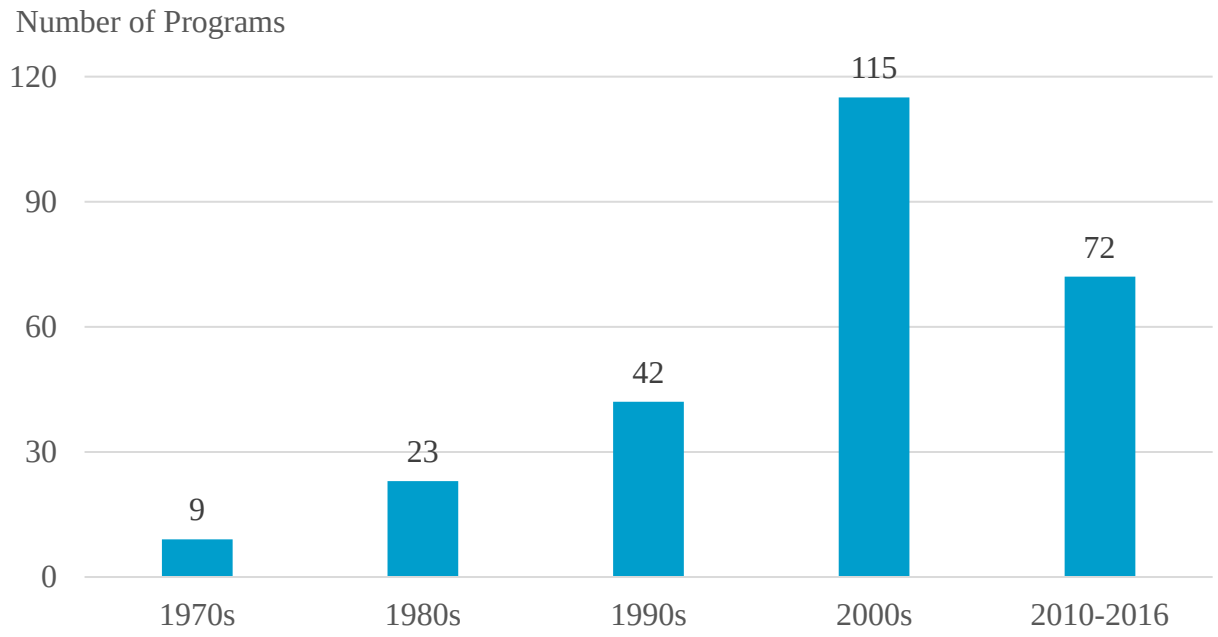
Table 12 summarizes the program characteristics for all inclusionary housing programs in the sample. Sample sizes vary by factor due to: (1) missing data; (2) responders not knowing the answer to certain questions; or (3) questions not applying to the program. See Appendix A for program information by jurisdiction.

Year of Inclusionary Housing Policy Adoption and Geographic Application

Inclusionary housing policies have existed for nearly half a century. Fairfax County, Virginia, which has the oldest policy in the U.S., passed its first inclusionary zoning ordinance in 1971. Montgomery County, Maryland, established the Moderately Priced Dwelling Unit program in 1974. Barring the survey's potential inaccuracy about the year in which an inclusionary housing program was adopted,[13] the number of inclusionary housing programs has grown steadily in the past four decades. Within this sample, the number of programs roughly doubled each decade with over 70 percent of programs being adopted after 2000.

[13] The survey asked the year in which an inclusionary housing program was adopted. However, it appears that survey responders interpreted this question inconsistently. Some respondents appeared to report the original year that the program was adopted, while others reported the year when a policy was updated or modified.

Figure 2: Number of Inclusionary Housing Programs by Year Adopted (n = 261)



Seventy-one percent of inclusionary housing programs apply to the entire jurisdiction (that is, town, city, or county), and an additional 7 percent apply to the entire jurisdiction, but program requirements vary by geography. The remaining 22 percent of programs only cover certain zones, neighborhoods, or districts within the jurisdiction.

Policy Type

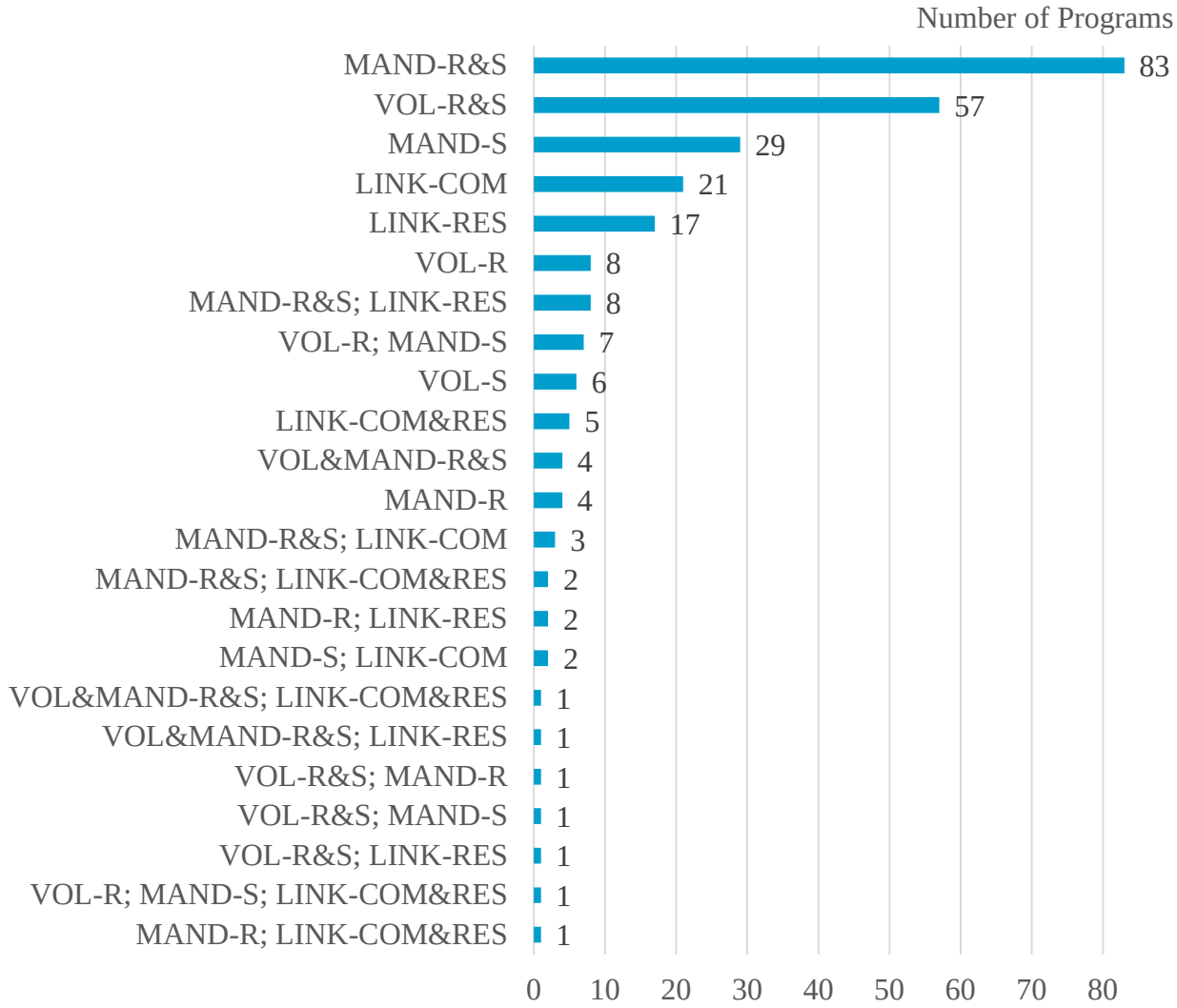
In the survey, responders were asked to classify their inclusionary housing program(s) in one or more of these six policy types: (1) voluntary program with rental development; (2) voluntary program with for-sale development; (3) mandatory program with rental development; (4) mandatory program with for-sale development; (5) linkage/impact fee program with commercial development; and (6) linkage/impact fee program with residential development.

A policy is defined as voluntary if developers can opt out of the program; whereas mandatory means they cannot. This question asked the responder to check all that applies by each program because some jurisdictions may collapse various policy types under one program, while other jurisdictions may design various ordinances or policies for each type of policy. The question's design ensured we understood what each inclusionary housing program included.

Out of 265 sample programs that reported policy type, mandatory programs applying to for-sale development was the most prevalent type (142, or 54 percent). The next most common type was a mandatory program applying to rental development (110, or 43 percent). Voluntary programs applying to rental and for-sale development consisted of slightly less than one-third of the survey sample (31 percent and 27 percent, respectively). Only a small portion of policies were linkage or impact fees (41, or 15 percent of the sample programs applied to residential development; and 34, or 13 percent applied to commercial development). A total of 12 percent of sample programs

reported more than one type, most of which were either mandatory and linkage or impact fee programs, or mandatory and voluntary programs.

Figure 3: Number of Inclusionary Housing Program by Type of Policy (n = 265)



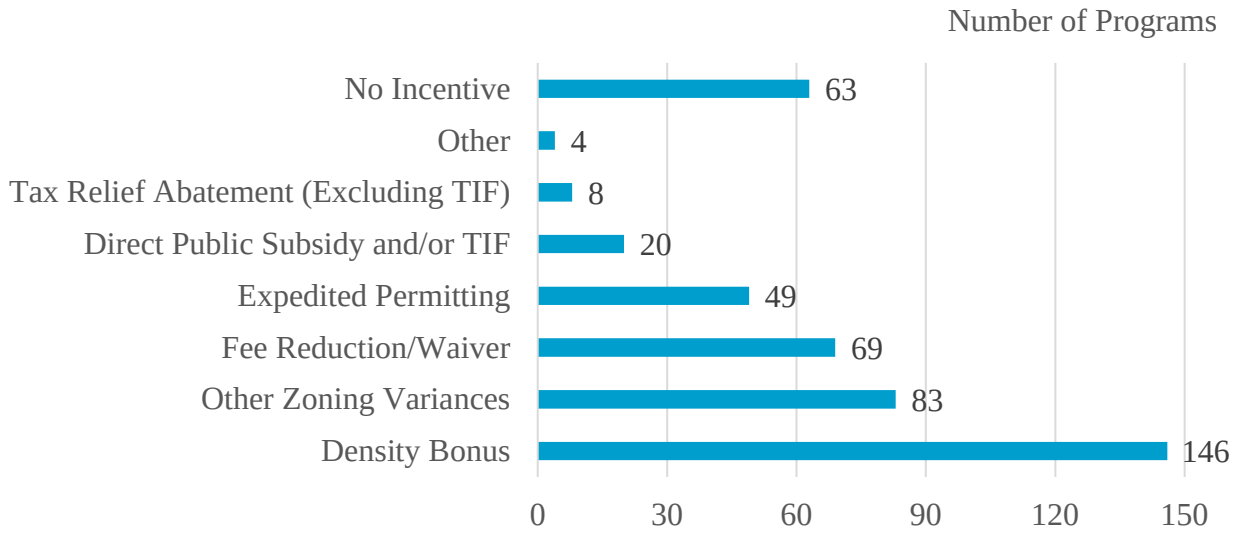
Notes:
MAND: mandatory; VOL: voluntary; LINK: linkage/impact fee; R: rental; S: for-sale; COM: commercial; RES: residential

Incentives

Many programs provide incentives to developers in order to: (1) entice them to participate in the inclusionary housing program (as is the case in voluntary programs); or (2) influence them to make a stronger impact, such as providing more units or deeper affordability (which can be seen in both voluntary and mandatory policies).

Of 187 programs that reported at least one incentive, many programs offer more than one kind of incentive; therefore, responders were asked to check incentives offered in each program. A density bonus was the most frequent incentive offered to developers (146 programs, or 78 percent). A substantial share of programs (44 percent) reported allowing zoning variances other than density bonus (for example, reduction of parking standards). Other common incentives included fee reduction or waiver (69 programs, or 37 percent) and expedited permitting (49 programs, or 26 percent). In contrast, only a small portion of programs (11 percent) incentivized developers to participate in the inclusionary housing program through direct public subsidy and/or tax incremental financing or other tax relief abatement approaches (4 percent). Other incentives reported through open-ended responses included: (1) concessions for inclusionary units such as size and cost of finishes; (2) technical/process assistance from the city; and (3) negotiation between inclusionary housing program administrative agency and the developer for incentives that the developer proposes.

Figure 4: Number of Inclusionary Housing Programs by the Incentives They Offer to Developers (n = 250)



Of the 250 programs that provided a response to this question, one-fourth of them did not have any incentive. There were 81 programs (32 percent) that only reported one incentive; and density bonus was the most prevalent incentive. In addition, there were 48 programs (19 percent) with two incentives, 36 programs (14 percent) with three incentives, and 15 programs (6 percent) with four incentives. Only seven programs (3 percent) reported as many as five incentives.

Table 12: Inclusionary Housing Program Characteristics Reported by Survey Sample (n = 273)

Profile	Count	Percentage
Year Adopted (n = 261)		
1970s	9	3%
1980s	23	9%
1990s	42	16%
2000s	115	44%
2010s	72	28%
Geographic Area (n = 259)		
Entire jurisdiction	185	71%
Certain zones, neighborhoods, or districts	57	22%
Entire jurisdiction but requirements vary	17	7%
Policy Type* (n = 265)		
Mandatory: for-sale development	142	54%
Mandatory: rental development	110	42%
Voluntary: rental development	82	31%
Voluntary: for-sale development	72	27%
Linkage/impact fee: residential development	41	15%
Linkage/impact fee: commercial development	34	13%
Type of Incentive* (n = 187)		
Density bonus	146	78%
Other zoning variances	83	44%
Fee reduction or waiver	69	37%
Expedited permitting	49	26%
Direct public subsidy and/or TIF	20	11%
Tax relief abatement (excluding TIF)	8	4%
Other	4	2%
Number of Incentives (n = 250)		
None/Not applicable	63	25%
One	81	32%

Profile	Count	Percentage
Number of Contribution Options (n = 258)		
One	79	31%
Two	60	23%
Three	54	21%
Four	34	13%
Five	26	10%
Six	5	2%
Minimum Project Size for the Program to Apply		
Rental (n = 242)		
Not applicable	128	53%
2–5 units	57	24%
6–10 units	34	14%
11–50 units	17	7%
Don't know	6	2%
Homeownership (n = 251)		
Not applicable	113	45%
2–5 units	73	29%
6–10 units	40	16%
11–50 units	19	8%
Don't know	6	2%
Affordability Term		
Rental (n = 238)		
Less than 30 years	17	7%
30–99 years	109	46%
Life of building	12	5%
In perpetuity	48	20%
Not applicable	42	18%
Don't know	10	4%

Two	48	19%	*Homeownership (n = 239)*		
Three	36	14%	Less than 30 years	23	10%
Four	15	6%	3–99 years	102	43%
Five	7	3%	Life of building	6	3%
Contribution Options for Developers* (n = 258)			In perpetuity	58	24%
On-site affordable units	235	91%	Not applicable	39	16%
In-lieu fee	131	51%	Don’t know	11	5%
Off-site affordable units	121	47%			
Land donation	72	28%			
Preserve/Rehab existing housing	50	19%			
Impact/Linkage fee	41	16%			
Other	6	2%			

Note: * The sum of percentages exceeds 100 percent because multiple responses could be selected for this variable.

Options for Developers to Contribute to Affordable Housing

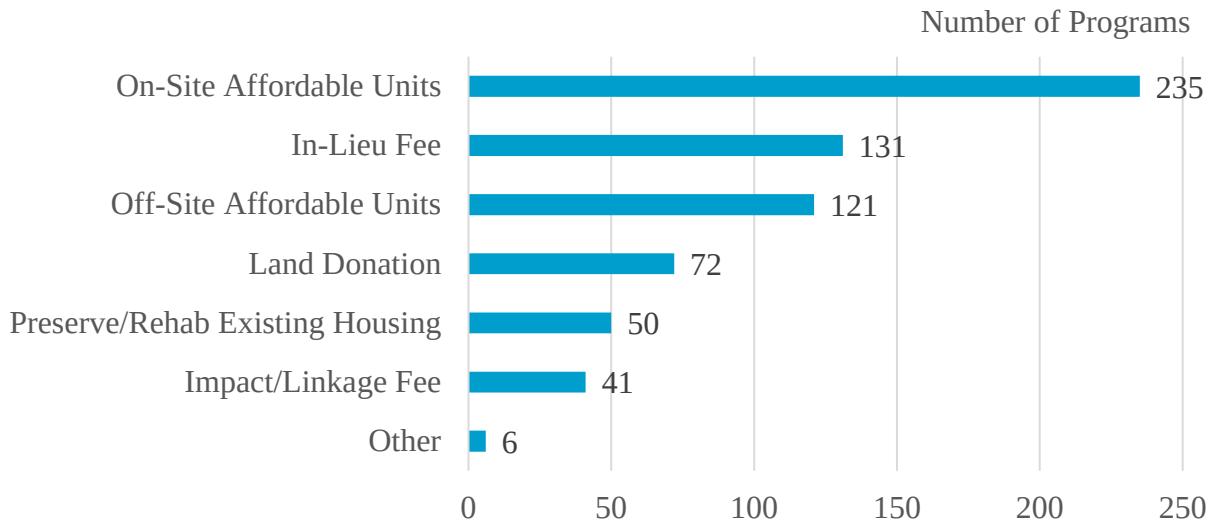
In order for developers to be eligible for incentives or to fulfill their obligations under a policy they can be given options for how to contribute to the creation of affordable housing. Survey participants were asked to select one or more of six contribution options in addition to the "other" selection.

Unsurprisingly, of programs that had information on developer contribution options (n = 258), providing on-site affordable units was the dominant way developers were asked or required to contribute to affordable housing. Ninety-one percent of programs included the provision of on-site affordable housing units as the sole way (57 programs, or 22 percent) or as one option among others (178 programs, or 69 percent) for developers. Two other options, in-lieu fee and providing off-site affordable housing, were included in about half of the inclusionary housing programs (51 percent and 47 percent, respectively). Additionally, 28 percent of programs allowed for land donation, 19 percent allowed for preservation or rehabilitation of existing affordable housing, and 16 percent allowed for the payment of an impact or linkage fee.

Notably, there were 28 impact or linkage fee programs that did not pick impact or linkage fee as a contribution option; and another three programs did the opposite. We believe that this was largely an oversight in reporting by responders; however, it is also possible that impact or linkage fee was not selected because neither affordable units nor fees had been generated by the program.

Three additional options were listed: (1) provision of senior housing, housing for people with disabilities, and childcare facilities, which are required by the California Density Bonus program; (2) credit transfer, which allows developers to request inclusionary unit credits in the event a project exceeds the total number of inclusionary units required on a site; they can use these credits to meet the inclusionary requirement for another project; and (3) any other creative concepts from applicants, which are subject to approval.

Figure 5: Number of Inclusionary Housing Programs by Developer Options to Contribute to Affordable Housing (n = 258)



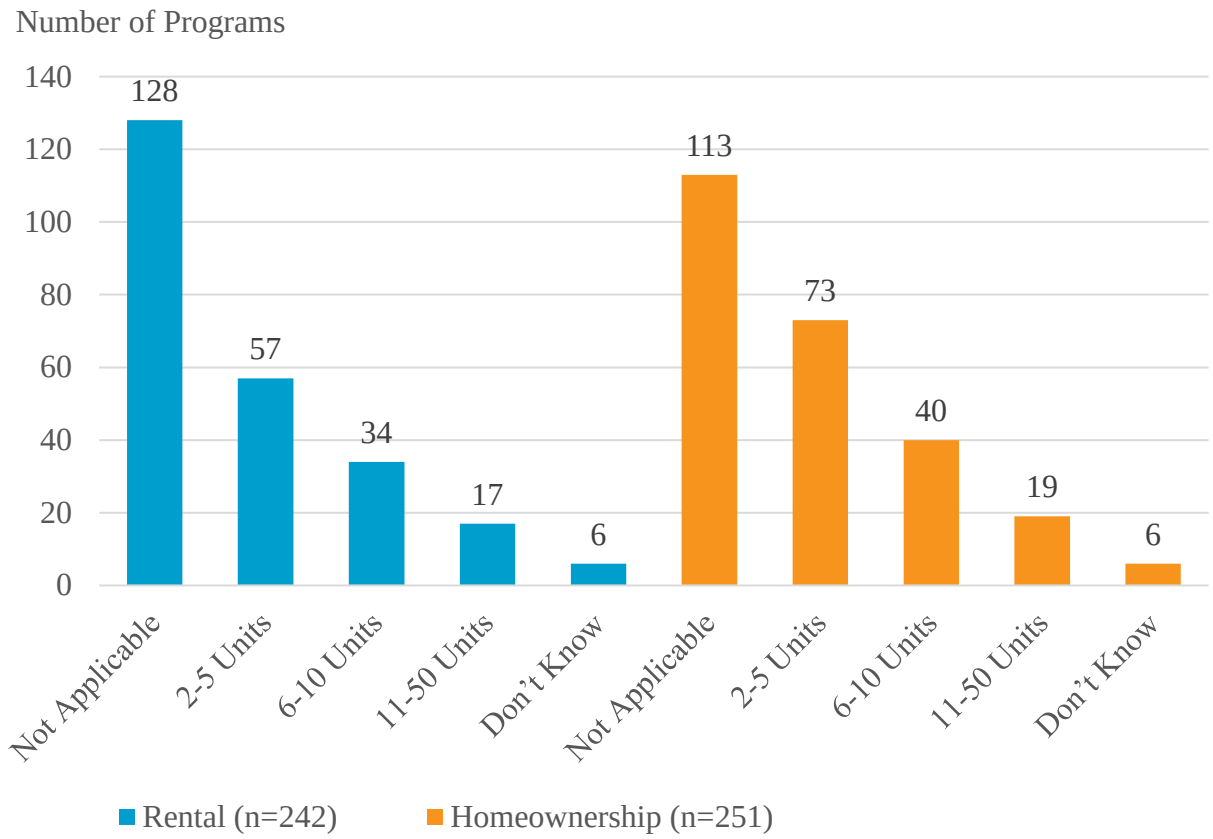
Of programs that had information on developer contribution options (n = 258), nearly one-third (n = 79) provided developers with one option; the dominant option was providing on-site affordable units (n = 57), followed by paying an impact or linkage fee (n = 12) and paying an in-lieu fee (n = 9). Twenty-three percent of programs (n = 60) offered developers two options; and another 21 percent (n = 54) offered three options. Five programs (2 percent) used as many as six approaches.

Application of Program Based upon Development Size

In many inclusionary housing policies, there is a minimum size requirement for a new development that triggers the application of the policy. For example, a new residential development might need at least 10 units, or a commercial project might need to be a minimum number of square feet. Over half (53 percent) of inclusionary housing programs applying to rental development did not report a required development size to trigger the policy. For programs applying to rental development, 24 percent of programs had a minimum project size between two and five units; 14 percent had a minimum project size between six and 10 units; and 7 percent had a minimum project size between 11 and 50 units.

The largest minimum project size to trigger the inclusionary housing policy for any program was 50 units, which applied to both rental and homeownership projects. Distribution trends are similar for inclusionary housing programs applying to for-sale units, except a smaller proportion (45 percent) reported no minimum size of developments for the policy to apply, and more policies (29 percent) had a minimum project size between two and five units.

Figure 6: Number of Inclusionary Housing Programs by Applicable Development Size



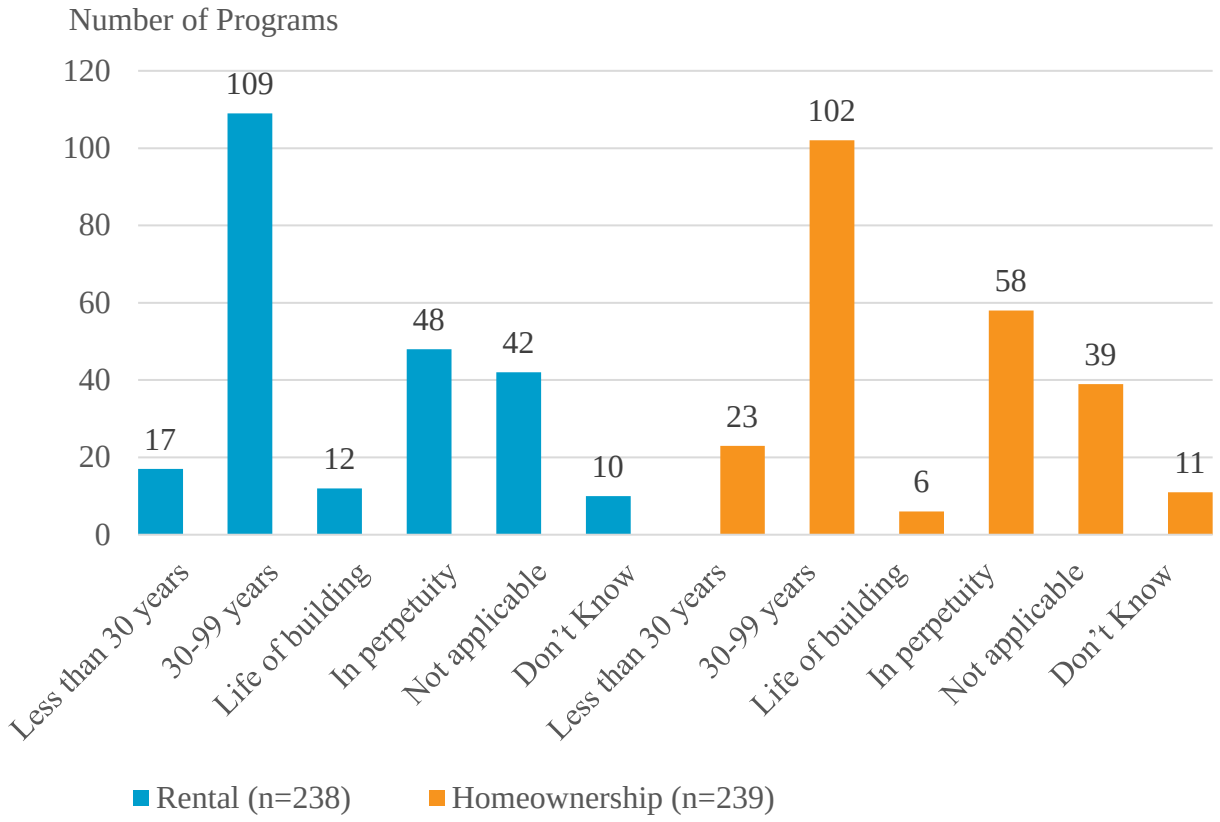
Affordability Terms

The vast majority of inclusionary housing programs require that the affordable housing units have long-term or lasting affordability restrictions, which are beyond the five- to thirty-year affordability requirements in federal programs. Of 238 programs with rental projects and 239 programs with homeownership projects that reported affordability terms, only a very minor proportion of programs reported affordability periods shorter than 30 years (10 percent of programs applying to homeownership projects and 7 percent of programs applying to rental projects). Over half of programs had affordability terms that were 30 years or longer (43 percent of programs applying to for-sale projects and 46 percent of programs applying to rental projects). Lastly, 27 percent of programs applying to for-sale project and 25 percent of programs applying to rentals defined affordability terms as "life of building" or "in perpetuity."

As previously supported (Hickey, Sturtevant, and Thaden 2014), most inclusionary housing policies that apply to homeownership programs utilize shared equity homeownership models to ensure that owner-occupied homes remain affordable to low- and moderate-income households, resale after resale in perpetuity. The most common shared equity homeownership model utilized by inclusionary housing programs is a resale-restricted homeownership program that applies deed restrictions to sell and resell homes at below market rate to income-eligible buyers. Notably, that is why many inclusionary housing programs have "below market rate" or "BMR" in their names. Oftentimes, the deed-restricted covenant used by these programs have 30-year

affordability terms; however, due to restrictions on the resale price and income eligibility, as well as requirements stipulating that a new deed restriction is signed upon transfers, these programs are effectively delivering permanent affordability terms.

Figure 7: Number of Inclusionary Housing Programs by Affordability Terms



Additional Characteristics of On-site Affordable Units

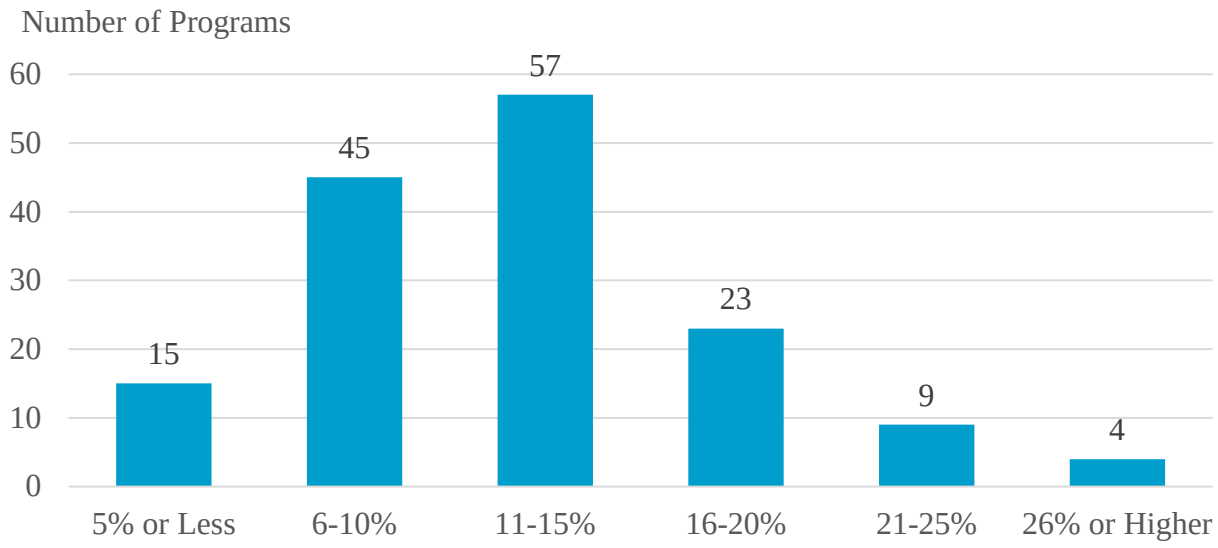
For programs that allowed developers to build on-site affordable housing units as an option to meet the policy (n = 235), the survey collected additional information on the proportion of on-site units that are required to be affordable and the targeted area median income (AMI) for households eligible for the affordable units. Findings are shown in table 13.

Proportion of Units Required to be Affordable on Site

Most programs (77 percent) established that a minimum number of units (or, less frequently, minimum square feet) of a new development shall be used for affordable housing under the inclusionary housing policy. The survey asked about the minimum because programs may vary the proportion of affordable units that is required by various incentives or the AMI level that the affordable units serve. Of 223 programs that reported having a requirement, 27 percent (n = 60) reported the minimum number of affordable units that are required is between 1 percent and 10 percent of housing units in a new development; 36 percent (n = 80) reported between 11 percent and 20 percent of housing units; and only 6 percent (n = 13) reported 21 percent or higher of

housing units. Another 7 percent (n = 16) of programs reported using a different measure as the requirement. There were 49 programs (21 percent) reporting no requirement for the minimum number of affordable units; and a small portion (five programs, or 2 percent) answered "don't know."

Figure 8: Number of Inclusionary Housing Programs with a Minimum Percentage of Units in a New Development that are Required to Be Affordable by the Percentage (n = 153)



For those 16 programs with a different measure, units of measure included: (1) floor area ratio; (2) tract/land parcel/lot area; (3) a combination of unit and floor area in some manner; and (4) the number of employees generated (for commercial linkage fee programs only). The use of floor area may give the program greater flexibility to negotiate with the developer on the size and number of bedrooms in affordable housing units. This would allow them to accommodate the needs of lower-income families who would not otherwise be served by the types of units most common in new construction.

Thirty-five percent (n = 82) of the 231 programs reported the proportion of affordable units that was required varied by developments. The variations were based on a range of factors, including: (1) level of affordability; (2) project size or density;(3) geographic location; (4) project type; (5) tenure; (7) percentage of open space; (8) any combination of above-mentioned mechanisms (28 percent); and (9) case-by-case negotiations with the developer.

Income Served by On-site Affordable Units

Many inclusionary housing programs have a range of income levels that are served by affordable units, and the maximum percentage of the area median income (AMI) for affordable units may vary by project size, incentives, and the proportion of required affordable housing units. These variations are often established to enable developers to serve lower income levels. Consequently, the survey asked respondents to identify whether there was a maximum AMI that the program served or whether there were multiple AMI tiers served. Of 185 rental programs that provided an

answer, 42 percent (n = 78) reported multiple AMI tiers. Twelve percent (n = 22) of programs reported having a maximum AMI (without multiple AMI tiers) that was between 50 percent and 60 percent of the AMI; 25 percent (n = 47) reported between 61 percent and 80 percent of the AMI; 5 percent (n = 9) reported between 81 percent and 100 percent of the AMI; and 9 percent (n = 16) reported between 101 percent and 150 percent of the AMI. In addition, a few programs (3 percent, n = 5) did not use AMI as the unit of measure for household income, and slightly more programs (4 percent, n = 8) reported "don't know."

The findings were generally similar for programs applicable to for-sale units. Of 201 homeownership programs that provided an answer, 40 percent (n = 81) reported multiple AMI tiers; 2 percent (n = 4) did not use AMI as the unit of measure for household income, and 4 percent (n = 8) reported "don't know." One notable difference was that the affordable homeownership units served households at higher income levels than the affordable rentals. An eligible household could earn as much as 160 percent of the AMI across all homeownership projects, as opposed to 150 percent of AMI in rental projects. In addition, a smaller portion of programs fell within the ranges of 50–60 percent of the AMI (3 percent in homeownership versus 12 percent in rental) and 61–80 percent of the AMI (22 percent in homeownership versus 25 percent in rental). Whereas a higher portion fell within the higher ranges, 81–100 percent of the AMI (8 percent in homeownership versus 5 percent in rental) and 101 percent of the AMI or higher (21 percent in homeownership versus 9 percent in rental).

Figure 9: Number of Inclusionary Housing Programs by Income Level Served

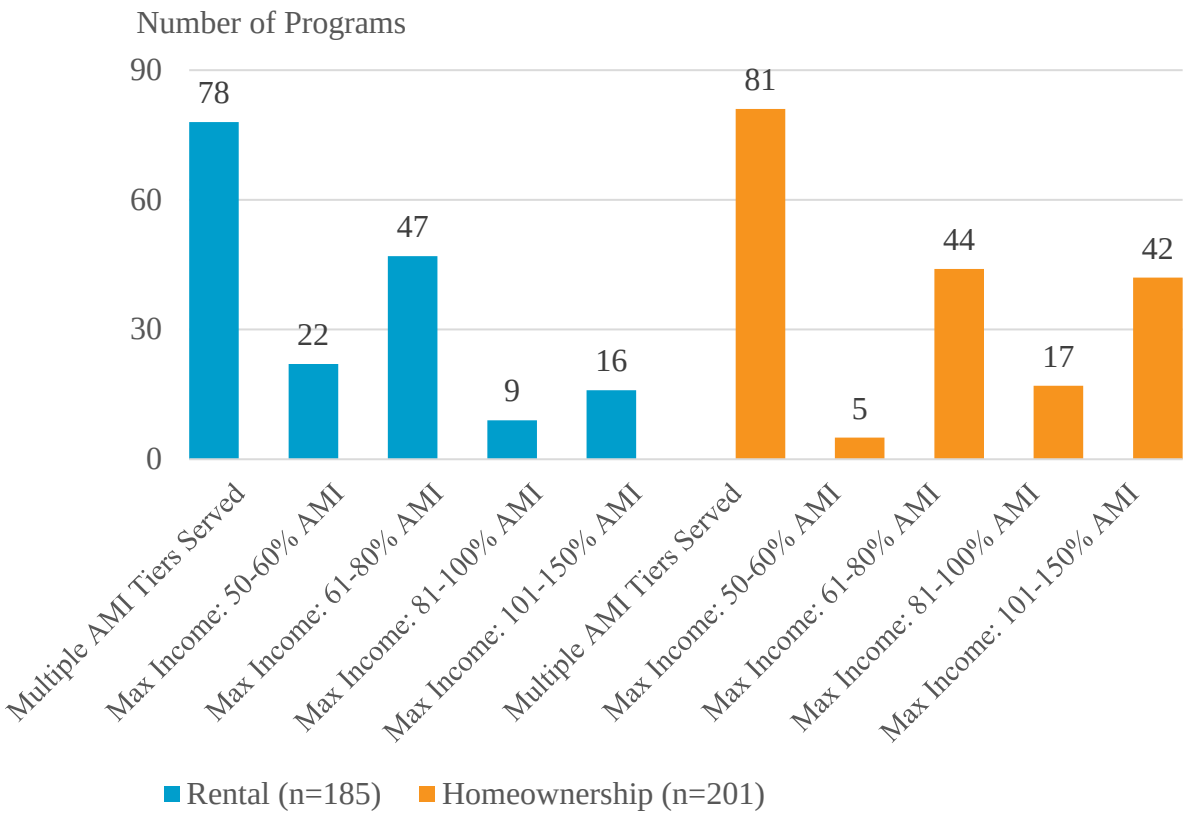


Table 13: Additional Inclusionary Housing Program Characteristics for On-site Affordable Units (n = 235)

Profile	Count	Percentage	Profile	Count	Percentage
Proportion of Required On-site Affordable Units (n = 223)			***Income Served by On-Site Affordable Units***		
1–10% of the housing units	60	27%	*Rental (n = 185)*		
11–20% of the housing units	80	36%	Multiple AMI tiers served	78	42%
21% of the housing units or higher	13	6%	Single Tier:		
Other unit of measure	16	7%	Max income: 50–60% AMI	22	12%
No requirement	49	22%	Max income: 61–80% AMI	47	25%
Don’t know	5	2%	Max income: 81–100% AMI	9	5%
			Max income: 101–150% AMI	16	9%
			Does not use AMI	5	3%
			Don’t know	8	4%
Minimum Requirement Varies by Developments (n = 231)			*Homeownership (n = 201)*		
Yes	82	35%	Multiple AMI tiers served	81	40%
No	141	61%	Single Tier:		
Don’t know	8	3%	Max income: 50–60% AMI	5	3%
			Max income: 61–80% AMI	44	22%
			Max income: 81–100% AMI	17	8%
			Max income: 101–160% AMI	42	21%
			Does not use AMI	4	2%
			Don’t know	8	4%

Program Characteristics by Year of Inclusionary Housing Policy Adoption

In table 14, we compare the trends in inclusionary housing program characteristics among programs that were adopted during or before 2006 and those that were adopted in the past decade (2007–present). We selected the year 2007 as the division between "older" and "newer" groups because it divided the sample into roughly equal groups. Additionally, in 2007, the onslaught of the economic crisis brought substantial changes to local housing markets that could have affected the adoption and design of inclusionary housing policies.

In general, there were relatively few differences between older and newer inclusionary housing programs. Only four factors were significantly different. Compared to older programs, newer programs were: (1) more likely to apply to certain zones, neighborhoods, or districts; (2) less likely to used expedited permitting as an incentive; (3) less likely to use in-lieu fee as an option for developers to fulfill the program; and (4) more likely to allow developers to preserve/rehab existing housing.

While not statistically significant, new programs tended to be: (1) less likely to apply to entire jurisdiction (65 percent versus 75 percent); (2) less likely to be mandatory (50 percent versus 59 percent); (3) more likely to offer fewer incentives (1.28 incentives versus 1.45 incentives); and (4) more likely to have affordability terms for programs with rental properties (46 years versus 43 years in rentals; 44 years versus 39 years in homeownership units).

Table 14: Older (n = 145) and Newer (n = 102) Inclusionary Housing Programs by Program Characteristics

	2006 or Prior	2007 or Later
Geographic Area	***n = 145***	***n = 102***
Entire jurisdiction	109 (75%)	66 (65%)
Certain zones, neighborhoods, or districts	27 (19%)	30 (29%)
Entire jurisdiction but requirements vary	9 (6%)	6 (6%)
Policy Type	***n = 153***	***n = 108***
Mandatory	91 (59%)	54 (50%)
Voluntary	46 (30%)	34 (31%)
Linkage/impact fee	34 (22%)	23 (21%)
Type of Development to Which Program Applies	***n = 129***	***n = 85***
Both	97 (75%)	61 (72%)
For-sale only	23 (18%)	13 (15%)
Rental only	6 (5%)	9 (11%)
Incentive	***n = 153***	***n = 108***
Density bonus	79 (52%)	57 (53%)
Other zoning variances	44 (29%)	32 (30%)
Fee reduction or waiver	43 (28%)	24 (22%)
Expedited permitting	34 (22%)	12 (11%)
Average number of incentives	*1.45*	*1.28*
Contribution Options for Developers	***n = 153***	***n = 108***
On-site affordable units	129 (84%)	97 (90%)
In-lieu fee	84 (55%)	43 (40%)
Off-site affordable units	66 (43%)	52 (48%)
Donate land	44 (29%)	25 (23%)
Preserve/Rehab existing housing	22 (14%)	26 (24%)
Average number of options	*2.42*	*2.44*
Affordability Term: Rental	***n = 152***	***n = 107***
Life of building/In perpetuity	34 (22%)	25 (23%)
Average number of years	*43.33*	*45.98*
Affordability Term: Homeownership	***n = 153***	***n = 107***
Life of building/In perpetuity	39 (25%)	24 (22%)
Average number of years	*38.99*	*44.08*
Proportion of Affordable Required On-Site Varies	***n = 123***	***n = 91***
Program Count	45 (37%)	28 (31%)

Program Characteristics by Location

California is a significant producer of inclusionary housing programs in the country (in terms of both the number of programs and the impacts). Since programs located in California comprised a substantial portion of the survey sample, it is important to explore in what aspects and to what extent the inclusionary housing programs in California were different in programmatic characteristics than those in the rest of the country. Table 15 shows the comparisons between programs in California and those in other states.

A noticeable difference was the type of geographic area the program covered. A vast majority (85 percent) of programs in California (n = 140) had uniform requirements across the entire jurisdiction, compared to only 55 percent of programs in other states (n = 119). In contrast, the percentage of programs that covered certain zones, neighborhoods, or districts was significantly higher in other states than in California (38 percent versus 9 percent). Such differences may be explained by the existence of state laws in California that influence the adoption and implementation of inclusionary housing.

In terms of policy type, one-third of programs in California (n = 142) were linkage or impact fee programs, whereas only 15 percent of programs in other areas (n = 123) belonged to this type. Lower percentages of programs in California were based upon mandatory policies (51 percent versus 63 percent) or voluntary policies (31 percent versus 36 percent) than programs outside of the state. This pattern may explain why in California a lower portion of programs (44 percent, n = 144) than those in other areas (64 percent, n = 129) had density bonus as either the sole incentive or one type of incentives, despite the state density bonus law that requires counties and cities to provide density bonus to eligible developments.

Also, on average, a lower number of incentives per program was provided in California than in other areas (1.29 incentives versus 1.50 incentives). Similarly, since on-site affordable unit provision is not necessarily a contribution option for developers in linkage or impact fee programs, the portion of this option in California was lower than in other areas (82 percent vs 91 percent), even though this option was prevalent in both groups. Nevertheless, a higher percentage of programs in California had expedited permitting as an incentive (22 percent versus 14 percent) and land donation as a contribution option for developers (33 percent versus 19 percent) than those in other states.

Programs in California had longer affordability terms for both affordable rental (48.67 years versus 40.17 years) and homeownership units (44.08 years versus 37.26 years). This may be partially explained by the state density bonus law, which requires low- and moderate-income units to remain affordable for at least 55 years. On the other hand, a smaller percentage of programs in California had affordability terms set as either life of building or in perpetuity than programs in other areas; this pattern applied to both rental (15 percent versus 36 percent) and homeownership (15 percent versus 39 percent) projects. Finally, inclusionary housing programs in California and other areas did not differ in terms of the type of development to which the programs applied, or in how the proportion of affordable units required on-site varied.

Table 15: Inclusionary Housing Programs in California and Other States by Program Characteristics

	Programs in CA	Other Programs
Geographic Area	***n = 140***	***n = 119***
Entire jurisdiction	119 (85%)	66 (55%)
Certain zones, neighborhoods, or districts	12 (9%)	45 (38%)
Entire jurisdiction but requirements vary	9 (6%)	8 (7%)
Policy Type	***n = 142***	***n = 123***
Mandatory	72 (51%)	78 (63%)
Voluntary	44 (31%)	44 (36%)
Linkage/impact fee	47 (33%)	18 (15%)
Type of Development to Which Program Applies	***n = 108***	***n = 114***
Both	80 (74%)	90 (79%)
For-sale only	21 (19%)	16 (14%)
Rental only	7 (6%)	8 (7%)
Incentive	***n = 144***	***n = 129***
Density bonus	64 (44%)	82 (64%)
Other zoning variances	45 (31%)	38 (29%)
Fee reduction or waiver	31 (22%)	38 (29%)
Expedited permitting	31 (22%)	18 (14%)
Average number of incentives	*1.29*	*1.50*
Contribution Options for Developers	***n = 144***	***n = 129***
On-site affordable units	118 (82%)	117 (91%)
In-lieu fee	66 (46%)	65 (50%)
Off-site affordable units	59 (41%)	62 (48%)
Donate land	47 (33%)	25 (19%)
Preserve/Rehab existing housing	27 (19%)	23 (18%)
Average number of options	*2.45*	*2.36*
Affordability Term: Rental	***n = 124***	***n = 116***
Life of building/In perpetuity	18 (15%)	42 (36%)
Average number of years	*48.67*	*40.17*
Affordability Term: Homeownership	***N = 122***	***N = 118***
Life of building/In perpetuity	18 (15%)	46 (39%)
Average number of years	*44.08*	*37.26*
Proportion of Affordable Required On-Site Varies	***n = 114***	***n = 117***
Program Count	36 (32%)	40 (34%)

Program Characteristics by Policy Type

Next, we compared inclusionary housing program characteristics by policy type (table 16). In general, voluntary programs are distinct from mandatory programs in many aspects. A lower proportion of voluntary programs (n = 72) applied solely to for-sale developments as compared to mandatory programs (n = 134) (respectively 8 percent versus 23 percent). Compared to mandatory programs, a higher proportion of voluntary programs applied solely to rental projects (81 percent versus 72 percent), as well as to both rental and for-sale projects (11 percent versus 5 percent).

Voluntary programs also had a higher average number of incentives (1.92 incentives versus 1.51 incentives) and were more likely to offer various incentives to developers than mandatory programs, including density bonus (72 percent versus 60 percent), other zoning variances (46 percent versus 33 percent), fee reduction or waiver (31 percent versus 26 percent), and expedited permitting (25 percent versus 21 percent). Twenty-one percent of mandatory programs (n = 28) had no incentive, compared to only 3 percent (n = 2) in voluntary programs.

On average, voluntary programs had a lower number of contribution options than mandatory programs (1.61 options versus 2.99 options) and lower proportions of offering various options for developers to contribute to affordable housing, including on-site affordable units (93 percent versus 97 percent), in-lieu fees (21 percent versus 69 percent), off-site affordable units (21 percent versus 61 percent), land donations (17 percent versus 33 percent), and preserving or rehabbing housing (6 percent vs 26 percent).

In addition, voluntary programs were less likely than mandatory programs to have affordability terms that were life of building or in perpetuity, which applied to both rental projects (17 percent versus 31 percent) and for-sale projects (13 percent versus 36 percent). For programs with affordability terms set in a definite number of years, the average number of years was shorter for voluntary programs than mandatory programs in both rental properties (38.80 years versus 46.90 years) and for-sale properties (31.57 years versus 44.13 years).

The average minimum project size for inclusionary housing policies to apply was smaller in voluntary programs than in mandatary programs; and this applies to both rental projects (7.04 units versus 10.00 units) and homeownership projects (7.55 units versus 9.20 units). In addition, voluntary programs were more likely than mandatory programs to have an unspecified minimum project size for both rental projects (67 percent versus 41 percent) and homeownership projects (68 percent versus 30 percent). Finally, voluntary and mandatory programs did not differ on the average project size for the policy to apply or on the maximum household income served for on-site developments.

There were only 16 inclusionary housing programs that had both mandatory and voluntary aspects. Although the figures were less reliable for comparison due to small sample size, in general, the pattern of programmatic characteristics for these programs was closer to mandatory than voluntary programs.

Table 16: Inclusionary Housing Program Characteristics by Policy Type

	Mandatory Programs	Voluntary Programs	Mandatory & Voluntary
Type of Development to Which Program Applies	***n = 134***	***n = 72***	***n = 16***
Both	96 (72%)	58 (81%)	16 (100%)
For-sale only	31 (23%)	6 (8%)	0 (0%)
Rental only	7 (5%)	8 (11%)	0 (0%)
Incentive	***n = 134***	***n = 72***	***n = 16***
None/Not applicable	28 (21%)	2 (3%)	2 (13%)
Density bonus	80 (60%)	52 (72%)	10 (63%)
Other zoning variances	44 (33%)	33 (46%)	6 (38%)
Fee reduction or waiver	35 (26%)	22 (31%)	9 (56%)
Expedited permitting	28 (21%)	18 (25%)	3 (19%)
Average number of incentives	1.51	1.92	2.06
Contribution Options for Developers	***n = 134***	***n = 72***	***n = 16***
On-site affordable units	130 (97%)	67 (93%)	15 (94%)
In-lieu fee	92 (69%)	15 (21%)	10 (63%)
Off-site affordable units	82 (61%)	15 (21%)	9 (56%)
Donate land	44 (33%)	12 (17%)	7 (44%)
Preserve/Rehab existing housing	35 (26%)	4 (6%)	6 (38%)
Average number of options	2.99	1.61	3.06
Affordability Term: Rental	***n = 124***	***n = 64***	***n = 10***
Life of building/In perpetuity	39 (31%)	11 (17%)	3 (30%)
Average number of years	46.90	38.80	41.43
Affordability Term: Homeownership	***n = 128***	***n = 60***	***n = 12***
Life of building/In perpetuity	46 (36%)	8 (13%)	3 (25%)
Average number of years	44.13	31.57	38.33
Minimum Project Size for Project to Apply: Rental	***n = 123***	***n = 67***	***n = 15***
Average Minimum Project Size	10.00	7.04	12.67
Not applicable/Don't Know	50 (41%)	45 (67%)	9 (60%)
Minimum Project Size for Project to Apply: Homeownership	***n = 132***	***n = 68***	***n = 16***
Average Minimum Project Size	9.20	7.55	13

Not applicable/Don't Know	40 (30%)	46 (68%)	4 (25%)
Maximum Income Served: Rental	***n = 98***	***n = 55***	***n = 11***
Tiers applied	49 (50%)	21 (38%)	6 (55%)
Average percent of AMI	83.23	82.29	60.00
Maximum Income Served: Homeownership	***n = 118***	***n = 51***	***n = 12***
Tiers applied	54 (46%)	18 (35%)	6 (50%)
Average percent of AMI	98.43	97.88	75.00

Conclusion

This study marks the largest national investigation of inclusionary housing policies in the United States that has been conducted to date. With 886 jurisdictions identified, the prevalence of inclusionary housing across the country was found to be larger than the previous report (Hickey, Sturtevant, and Thaden 2014). While a large part of this project was verifying and updating inclusionary housing programs and the jurisdictions where they are located, future research is needed to continue to assess the accuracy of identified jurisdictions and update this information as a greater number of inclusionary housing policies are adopted (or terminated).

The study also conducted a more in-depth and systematic identification of the number of inclusionary housing programs located in jurisdictions, finding 1,379 programs in 791 jurisdictions for which information was gathered. This number should be interpreted as an estimate that is significantly determined per the operationalization of "programs" described in the Results section for places with state-wide policies. Nevertheless, over 40 percent of the 168 jurisdictions in the survey sample reported having more than one inclusionary housing program with the most common combinations being: (1) mandatory and impact fee programs; and (2) mandatory and voluntary programs. This would make sense as mandatory inclusionary housing policies could apply to residential development and impact fee programs could be applied to commercial development in order to maximize affordable housing production in many local markets. Additionally, for states with laws against rent control (for example, California, Colorado, Minnesota, Tennessee, and Texas), it is often not legally possible to apply a mandatory policy on rental development; therefore, these jurisdictions may have opted for a voluntary rental program coupled with a mandatory homeownership program (for further discussion, see Jacobus 2015).

It is unknown what bias exists amongst the sample for which information on program characteristics was collected (n = 273). Hence, this is not a representative sample so results cannot be generalized. Speaking only to trends in program characteristics for the sample, inclusionary housing policies slowly grew during the 1970s until 2000 and then a boom of adoption occurred since that time with over 70 percent of programs being adopted after 2000. With 72 programs adopted in the last six years and at least a dozen additional jurisdictions pursuing adoption presently, inclusionary housing policies appear to be growing in popularity as a local affordable housing tool.

The most prevalent type of inclusionary housing policy was mandatory policies applying to all types of residential development followed by voluntary policies on residential development. Notably, a substantial portion of linkage or impact fee policies are in California (n = 47) versus other places (n = 18) with roughly equal numbers applying to residential or commercial development. Interestingly, there was not a difference amongst mandatory and voluntary programs in terms of the maximum income levels served by affordable housing. Unsurprisingly, mandatory policies tend to offer fewer types of incentives to developers than voluntary programs. While it would be extremely challenging, it would be beneficial for future research to examine the relationship between the monetized value of incentives and the production of affordable housing, especially in voluntary programs where incentives must adequately influence developers to opt in to contributing to affordable housing.

In terms of the options developers were provided for fulfilling their contribution to affordable housing under the inclusionary housing policies, 235 out of 273 programs offered developers the option to build on site, while the second most prevalent option was paying an in-lieu fee (n =131). Interestingly, the share of programs offering the option to pay a fee in-lieu of on-site or off-site development was 15 percent less in programs established after 2006. It would be interesting for future research to explore whether this trend is generalizable and potentially indicates a desire for local governments to optimize the impact of their programs, especially in terms of building inclusive communities. Ultimately, in-lieu fees are often set lower than the cost of producing an affordable unit in an area where the new development is located; hence, minimizing in-lieu fee options (or ensuring fees are priced correctly) may be an effective shift to promote affordable housing in asset-rich neighborhoods.

Roughly half of all programs reported that a minimum development size was not applicable. Due to poor survey design and no clear patterns in responses, we are uncertain how to interpret this result. One possibility may be that voluntary programs do not set up minimum development sizes since developers have the choice to participate in the program. Another possibility is that mandatory programs provide an in-lieu option for when development projects are too small to require the development to include on-site affordable housing, rendering the policy effective to all sizes of development.

For on-site development, survey responders were asked to report the proportion of housing that was required to be affordable in the new development. For those that reported a minimum development size for the program to be triggered, 37 percent reported that between 11 and 15 percent of units were required to be affordable and 30 percent reported between 6 and 10 percent of units must be affordable. Fifteen out of 153 programs required more than 20 percent of the newly developed units to be affordable. The proportion of affordable housing that is required largely depends upon the economic feasibility of an inclusionary housing policy and local political will.

This study found that at least 90 percent of inclusionary housing programs had affordability requirements that lasted for 30 years or longer. This trend in local inclusionary housing programs differs from the relatively short-term affordability requirements in federal housing programs, which range from five to 30 years. The embrace of long-term and lasting affordability requirements by local governments illustrates their commitment to preserve the affordable housing stock in their communities as well as the more prudent use of public and private investment in affordable housing. Ultimately, this strategy to retain affordability substantially increases impact, as more families can be served over time by these affordable homes. However, lasting affordability requirements are only as good as the asset management and stewardship provided by these programs. Jurisdictions (or their partners) must effectively design and implement their programs to ensure compliance, property upkeep, ongoing income verification, and that for-sale homes are priced and resold to remain affordable (for additional information on best practices, see Hickey, Sturtevant, and Thaden 2014).

Notably, not every jurisdiction reported in the survey sample also had accompanying program characteristic data, as we asked respondents to complete questions about characteristics on their two highest performing programs. There is ample opportunity for future research to gather

characteristics on more programs, especially in New Jersey, Massachusetts, and New York, which were underrepresented in the sample. Furthermore, a host of additional information could be gathered to better understand how programs operate, such as affordable housing design standards, assessments of homeownership association dues (which can threaten affordability), income certification and property management practices, and ways programs are evaluated or have been modified over time.

The largest challenge in this study was that many inclusionary housing practitioners could not provide information on the total affordable housing units and fees produced by their program(s). A surprising number of staff did not know this information (or an estimate) and could not track it down when asked in follow-up communications. We believe this is a major problem for inclusionary housing programs that should be rectified. Ultimately, inclusionary housing programs must track the units they produce and effectively steward them to preserve affordable housing opportunities for members of their community. Systems like HomeKeeper should be adopted to promote better program management and evaluation. HomeKeeper is a workflow management system developed and maintained by Grounded Solutions Network—a national nonprofit membership organization of programs and organizations committed to housing with lasting affordability—that helps program staff track properties, households, and transactions, which compiles information into performance metrics and programmatic outcomes.

Ultimately, this study documented that 76 percent (n = 675) of known jurisdictions with inclusionary housing programs created 173,707 affordable housing units, and 42 percent (n = 373) of known jurisdictions with inclusionary housing programs reported $1.7 billion in fees. These numbers should only be considered estimates due to dated, incomplete, or inaccurate data sources, and the methods for identifying jurisdictions with inclusionary housing policies and secondary state-level data inevitably introduced known and unknown bias. Roughly 45,000 affordable units reported by approximately 40 jurisdictions and $400,000,000 reported by 24 jurisdictions were produced outside of California, New Jersey, and Massachusetts. A critical factor related to the existence of programs and production of inclusionary housing fees and units is whether states have state-wide inclusionary housing policies or policies that promote local adoption. To reduce survey administration burden, respondents were only asked to report on the outcomes of their inclusionary housing programs in totality; therefore, it is not possible to decipher which programs (or their characteristics) are associated with higher rates of production. However, future research should study these relationships.

While some may interpret the outcomes of inclusionary housing programs to be relatively modest, it is important to acknowledge that this is one tool in the state and local affordable housing “toolbox.” Furthermore, the impacts of these policies can become more substantial when housing has lasting affordability so that a greater number of households benefit over time and when that housing is located in neighborhoods of opportunity.

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