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PRACTICE INCLUSIONARY HOUSING PART TWO

10

Inclusionary Housing: Proven Success in Large Cities

By Nicholas J. Brunick

For nearly three decades, inclusionary housing served locally as an effective tool for medium-sized cities and wealthy suburban counties to address the need for affordable housing.

In a climate of decreased federal support, local governments in affluent communities found inclusionary zoning to be a cost-effective way to produce homes and apartments for valued citizens, including seniors, public employees, and working-poor households, who would otherwise be excluded from the housing market.

Until recently, no large U.S. city had adopted an inclusionary housing program. With the 1990s resurgence of many urban centers as vibrant locations for new investment, inclusionary zoning has surfaced as a policy solution to rising housing costs in big cities.

This issue of *Zoning Practice*—the second in a two-part series on inclusionary housing—discusses why large urban centers are examining and adopting inclusionary housing strategies. The article also presents five case studies of recently enacted inclusionary housing programs in Boston, Denver, Sacramento, San Diego, and San Francisco. Finally, lessons that other local governments (large or small) can draw from the large-city inclusionary housing experience will be proposed and examined.

WHY LARGE CITIES?

It is clear that inclusionary zoning is no longer a policy tool used exclusively in affluent suburbs and small cities. Why are large cities now beginning to adopt and implement inclusionary housing programs? Though the reasons are varied, they all stem from the need to preserve the livability and attractiveness of cities for capital investment and people.

For more than the poor. Large cities are adopting inclusionary housing programs because of their proven effectiveness in addressing the dearth of affordable housing. In the 1990s, housing costs outpaced income

growth for low- and moderate-income households. The extension of the affordable housing crisis to working-class and lower-middle income households has heightened the urgency to address the problem.

No funding. Inclusionary zoning is the market-based tool cities need for producing affordable housing without using tax dollars. Public revenues remain tight despite the urban resurgence, and the fiscal capacity of large cities has been severely hamstrung by the 30-year retrenchment in federal spending on cities and housing in general, the poor economic conditions of the past three years, and the recent federal tax cuts and other federal policies that dismiss any significant level of federal revenue sharing to aid states and cities during these historically tough times.

Through the use of creative cost offsets such as density bonuses, flexible zoning standards, and expedited permitting processes, large cities can create affordable housing while preserving the federal and state housing dollars they receive for more vulnerable popu-

lations (extremely low-income, disabled, homeless, etc.) and preserving more of the local tax base for other pressing public needs.

The global economy. To be competitive in a global economy, urban communities need a sufficient supply of affordable housing for every level of the workforce, a basic level of economic equality, and a healthy consumer class. Inclusionary zoning provides large cities with a multipurpose policy tool to help maintain a strong economic environment by creating affordable housing for entry-level occupations in key industries, by strengthening the economic security of low- and moderate-income households, and by integrating affordable housing into market-rate developments and traditionally market-rate neighborhoods.

Racial and economic segregation. Inclusionary housing can mitigate the symptoms of racial and economic segregation plaguing many American cities today, including crime, failing schools, and social instability, all of which deter human and capital investment. By producing low- and moderate-income housing in an attractive, mixed-income fashion within market-rate developments, inclusionary zoning programs help to reverse exclusionary development patterns, which discourage companies and moderate-income households from choosing to locate or remain in the city.

Sprawl and disinvestment. Sprawl pulls public and private investment away from the urban core. If affordable housing cannot be found in the city, developers and citizens will look where land costs are lowest for investment—usually on the fringe of the metropolitan region. Inclusionary zoning programs allow large cities to use density bonuses and other cost offsets to produce and maintain a sufficient supply of affordable housing within

WEB-BASED ENHANCEMENTS FOR ZONING PRACTICE

In order to provide better service to *Zoning Practice* subscribers, with this issue we offer the complete list of references for Nicholas J. Brunick's article and affordable housing web resources on the *Zoning Practice* web pages of APA's website. We invite you to check out this enhancement at www.planning.org/ZoningPractice/currentissue.htm. We will do this whenever we determine that we can use the Internet to heighten the informational value we are delivering to our subscribers.

ASK THE AUTHOR JOIN US ONLINE!

During November 15–26, go online to participate in our “Ask the Author” forum, an interactive feature of Zoning Practice. Nicholas J. Brunick will be available to answer questions about this article. Go to the APA website at www.planning.org and follow the links to the Ask the Author section. From there, just submit your questions about the article using an e-mail link. The author will reply, posting the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of Zoning Practice at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA Zoning Practice web pages.

About the Author

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the city core, thereby reducing the economic pressures that send people, employers, and investment away from the city.

Large cities face housing shortages that threaten the economic and social well-being of their communities. In the absence of a coherent federal urban policy and significant federal funding for affordable housing, inclusionary zoning provides large cities with a market-based tool to address the need for a wide range of housing options.

LARGE-CITY CASE STUDIES

Since 2000, five major U.S. cities with populations exceeding 400,000 people have adopted inclusionary housing programs. Boston has an executive order requiring developers to build affordable housing in new developments, and Denver, San Francisco, San Diego, and Sacramento have inclusionary housing ordinances that require affordable homes and apartments in new developments. These programs provide trail-blazing examples that other urban centers can follow.

Boston

Background. The economic boom of the 1990s raised income levels for Boston area residents, but housing prices went even higher, soaring at a double-digit pace. As construction and land costs increased, gentrification spread from the central downtown areas to surrounding neighborhoods, displacing moderate-income families. In addition, affordable-housing advocates said the city’s unofficial inclusionary housing program was failing to produce affordable units, pointing to two high-profile developments devoid of affordable housing. Boston’s tight housing market, and pressure from community-based organizations and housing advocates, led Mayor

Thomas Menino to sign an executive order in February 2000 creating an inclusionary housing policy.

The program. Under Boston’s policy, any residential project that contains ten or more units and, 1) is financed by the City of Boston or the Boston Redevelopment Authority (BRA), 2) is to be developed on property owned by the city or BRA, or 3) requires zoning relief, triggers the requirements of the program. Due to the antiquity of the city’s zoning code, nearly all residential developments over nine units are covered by the executive order.

The Boston policy states that in all qualifying developments, 10 percent of the housing units must be affordable. While the policy provides for off-site development of affordable units, a developer who exercises this option must include a 15 percent (rather than 10 percent) affordable component. This requirement creates an incentive for developers to construct the affordable units on-site. Boston’s program also allows for a fee-in-lieu payment to BRA.

The results. In the initial year of implementation, eight privately financed high-end housing developments were subject to the policy requirements. As a result, approximately 246 affordable units were constructed with many more in the pipeline. A total of \$1.8 million in fees were collected, with millions more committed. New housing development continues to boom in Boston, and development projects remain lucrative, even with the affordable unit set-aside requirement. Pleased with the results thus far, the city is now conducting a demonstration project to see how a 15 percent affordability requirement would work.

Denver

Background. Denver has one of the newest inclusionary housing programs in the country.

The ordinance, passed by the city council in 2002 in response to the city’s workforce housing needs, was an amendment of the housing and zoning codes to create a moderately priced dwelling unit (MPDU) program.

The program. Unlike many local inclusionary zoning ordinances, the Denver program covers new construction and existing buildings that are being remodeled to provide dwelling units. Most programs cover new construction only. Existing developments that are for-sale must include a 10 percent affordable component. Because of a state statute and a Colorado Supreme Court ruling prohibiting local ordinances from limiting rent levels,



ⓘ The redeveloped Denver Dry Goods Building, which includes a mix of affordable and market-rate housing, retail, and office space. Built in 1888, this 350,000-square-foot building is located in downtown Denver near the city’s light rail system.

Susanah Levine

rental developments can voluntarily choose to price 10 percent of the units as affordable.

In addition to density bonuses, reduced parking, and an expedited review process, Denver also provides a cash subsidy to developers for the affordable units (state law does not allow the city to provide fee waivers). The Denver ordinance permits the developer to build the required affordable units off-site but within the “same general” area. Instead of constructing the affordable units, developers also may contribute an in-lieu fee to the special revenue fund in an amount equal to 50 percent of the price per affordable unit not provided.

The results. Denver’s program stands out as the most successful to date for a city this size. Since its passage in 2002, the program has produced (or is in the process of producing) 3,395 affordable units. To the surprise of city staff, no fee-in-lieu money has been collected thus far. Though Denver is considering a few minor changes to the program’s implementation, it is deemed a tremendous success. Furthermore, the program has not had a negative effect on development levels in the city.

Sacramento

Background. In the 1990s, Sacramento experienced significant growth in residential and commercial development on its periphery. The commercial development created new jobs for a variety of income levels, but the majority of residential development was upscale. To provide housing to low- and moderate-income families near or within these job-rich areas, the city council explored an inclusionary housing program. Through the work of a broad coalition of affordable-housing advocates, labor unions, neighborhood associations, environmental groups, minority-led efforts, faith-based organizations, and the local chamber of commerce, the city council passed the Mixed-Income Housing Ordinance in 2000.

The program. The ordinance applies to all residential development over nine units in “new growth areas,” including large undeveloped areas at the city’s margins, newly annexed areas, and large interior redevelopment areas. The affordable requirement under the ordinance is 15 percent of all units, which can be single or multifamily. Flexibility in unit type helps developers determine a cost-effective way to construct the affordable units.

Sacramento provides a density bonus of 25 percent, which follows the density bonus required under California law for certain types of affordable developments. In addition to the den-

LARGE-CITY INCLUSIONARY HOUSING PROGRAM MODEL				
City/Implementation Date/Population	Affordable Units Produced	Threshold Number of Units/ Income Target	Affordable Requirement	Control Period
Boston, Massachusetts 2000 589,141	246 inclusionary units completed since 2000; \$1.8 million in fees	<i>Threshold:</i> ten or more units <i>Income Target:</i> at least one-half of affordable units for households earning less than 80 percent of the AMI; remaining affordable units for households earning 80-120 percent of the AMI, with an average of 100 percent of the AMI	10 percent	“Maximum allowable by law”
Denver, Colorado 2002 554,636	3,395 units completed since 2002	<i>Threshold:</i> 30 units or more <i>Income Target:</i> 65 percent of the AMI for rental units and less than 80 percent of the AMI for for-sale units	10 percent of for-sale units or a voluntary 10 percent for rental units	15 years
Sacramento, California 2000 407,075	649 units completed since 2000; more in the pipeline	<i>Threshold:</i> any development over 9 units <i>Income Target:</i> 15 percent of the units must be set aside as affordable. One-third of households making 50-80 percent of the AMI. Two-thirds of households making less than 50 percent of the AMI	15 percent	30 years
San Diego, California 1992, expanded in 2003 1,223,341	1,200 units completed between 1992 and 2003; 200 units in the pipeline; \$300,000 in fees	<i>Threshold:</i> ten or more units <i>Income Target:</i> rental units are set aside for households earning at or below 65 percent of the AMI; for-sale units are set aside for households earning at or below 100 percent of the AMI	10 percent	55 years for rental and for-sale units
San Francisco, California 1992, expanded in 2002 776,733	128 units completed between 1992 and 2000; 450 units completed since 2002; 440 units in the pipeline	<i>Threshold:</i> ten or more units <i>Income Target:</i> for rental units, households earning 80 percent or less of the AMI; for for-sale units, households earning 120 percent of the AMI	10 percent	50 years for rental and for-sale units



➔ Ryland Homes in Sacramento. This single-family home was produced under the Sacramento inclusionary zoning ordinance.

sity bonus, developers also may receive expedited permit processing for the affordable units, fee waivers, relaxed design guidelines, and priority status for available local, state, and federal housing funds.

The results. The Sacramento ordinance is responsible for the creation of 649 units to date with more to come; this ordinance has not had a negative effect on development.

San Diego

Background. In 1992, San Diego voters imposed an inclusionary housing requirement in the North City Future Urbanizing Area (FUA), a developing section of the city with no rental or affordable housing. The requirement reserves

In-Lieu-Fee Payment/ Off-Site Development	Density Bonus	Other Developer Incentives
<p><i>Fee:</i> must be equal to 15 percent of the total number of market-rate units times an affordable housing cost factor</p> <p><i>Off-site:</i> may build off-site, but set-aside requirement increases to 15 percent</p>	None	No citywide developer incentives, but increased height and FAR allowances permitted in the financial district
<p><i>Fee:</i> 50 percent of the price per affordable unit not built</p> <p><i>Off-site:</i> allowed if developer builds the same number of affordable units in the "same general" area</p>	Up to 20 percent for single family units; up to 10 percent for multifamily units	\$5,000 reimbursement for each for-sale unit, up to 50 percent of the total units in the development; \$10,000 reimbursement for each affordable rental unit if unit is priced for households at 50 percent of the AMI or below; expedited permit process; parking reductions
<p>Can dedicate land off-site or build off-site if:</p> <ul style="list-style-type: none"> there is insufficient land zoned as multifamily on-site alternative land or units must be in "new growth" areas 	25 percent	Expedited permit process for affordable units; fee waivers; relaxed design guidelines; may receive priority for subsidy funding
<p><i>Fee:</i> calculated based on the square footage of an affordable unit. Fee increases between 2003 and 2006 from \$1.00 per square foot to \$2.50 per square foot</p> <p><i>Off-site:</i> developers can opt to build off-site (set-aside does not increase)</p>	None	None
<p><i>Fee:</i> determined by several factors including the projected value of on-site affordable units; in-lieu payments are made to the Citywide Affordable Housing Fund</p> <p><i>Off-site:</i> developers can elect to build affordable units off-site, but the set-aside requirement increases to 15 percent</p>	None	Refunds available on the environmental review and building permit fees that apply to the affordable units

20 percent of all new rental and for-sale dwelling units for households earning 65 percent of the area median income (AMI). Developers must build affordable units because payment of a fee-in-lieu is not an option. According to San Diego planner Bill Levin, the FUA's inclusionary zoning program produced 1,200 affordable units over the last decade. Development has continued rapidly in the FUA. The city estimates that 1,200 additional affordable units will be produced before the FUA is completely built out.

In July 2003, San Diego adopted a citywide inclusionary zoning ordinance. The effort to pass the ordinance was based on the success of the FUA program, the rising demand for affordable housing for many groups, and the recommendation of an inclusionary zoning working group

that included formerly skeptical developers. A detailed economic analysis of the potential impact of a citywide ordinance convinced developers that they would be able to do business under the new law.

The program. The ordinance requires all residential developments of ten or more units to include a 10 percent affordable housing component. The FUA is exempt from the citywide ordinance and will continue to adhere to the 1992 FUA inclusionary zoning framework.

Neither the 1992 FUA inclusionary zoning ordinance or the 2003 citywide ordinance provides developers with incentives or cost offsets for building affordable units. The city opted to not

market, the architects of the law were concerned that it might generate substantial fees and little affordable housing, but city staff are thus far pleased with the performance of the ordinance and say it has not stifled development.

San Francisco

Background. In 1992, San Francisco adopted a limited inclusionary housing program to address the shortage of affordable housing for very-low- and low-income residents. The 1992 ordinance applied only to planned unit developments (PUDs) and projects requiring a conditional use permit, neither of which affected a substantial amount of residential development in the city.



San Diego Housing Commission

➔ Windwood Village in San Diego includes 92 one-, two-, and three-bedroom apartments. The development allows working families and low-income households to live closer to work.

offer cost offsets, such as fee waivers or density bonuses, because developers can easily cover the cost of affordable units through the sale of market-rate units, according to an economic analysis conducted for the housing commission.

Developers can opt to make a fee-in-lieu payment, which is based on the square footage of an affordable unit compared to the gross square footage of the entire project. Upon approval from the plan commission and the city council, the inclusionary housing requirements also can be satisfied by providing the same number of units at another site within the same community planning area.

The results. Under the citywide law, 200 affordable units are in the development pipeline, and \$300,000 in fees has been collected. Because of the robust San Diego housing

In January 2002, the inclusionary zoning ordinance was expanded to include all residential projects of ten units or more, including live-work units. The program's expansion came in response to the ongoing affordable housing crisis and political pressure from community groups concerned about the displacement of low-income households as a consequence to rising property values and unattainable live-work units. Live-work units starting at \$300,000 in the mid-1990s had reached \$700,000 by the end of the decade.

The program. Under the new ordinance, 10 percent of the units in a residential development of ten or more units must be affordable. The affordable requirement jumps to 15 percent if the units are provided off-site. PUDs

and developments that require a conditional use permit are subject to a 12 percent affordable component, increasing to 17 percent if the affordable units are built off-site.

San Francisco offers minimal developer incentives. Incentives are limited to refunds on the environmental review and building permit fees for the portion of the housing project that is priced affordably. Developers can make fee-in-lieu payments to the Citywide Affordable Housing Fund instead of building the units. The amount of the fee is determined by several factors, including the projected value of the affordable units if the developer constructed them on-site.

The results. Since the adoption of comprehensive inclusionary zoning in 2002, the program has generated 450 affordable homes and apartments with approximately 440 more units in the development pipeline. Planning staff report an increase in development activity since passage of the ordinance.

BENEFITS

Though large cities are newcomers to inclusionary zoning, three valuable benefits can be seen from the experience thus far. First, inclusionary zoning is a highly versatile policy tool that can be used effectively in large cities, affluent suburbs, and smaller communities. Second, inclusionary housing programs, when properly designed, will not chill development in large urban centers. Third, inclusionary zoning can successfully serve a broad range of income levels and populations in need of affordable housing in urban centers.

Versatility. Given both the poor prospects for a renewed federal commitment to affordable housing and the proven success of inclusionary zoning programs around the country, more cities with higher-cost housing markets should feel emboldened to explore inclusionary housing programs. The cities profiled in this article have successfully created many new units of affordable housing (or collected comparable fees-in-lieu) using a variety of approaches with cost offsets, income levels, and administration, demonstrating a highly versatile tool that can be tailored to meet the specific needs of cities large and small.

Effect on development and cost offsets. Large-city administrators must not buy into the misconception that inclusionary housing will only work in large-tract, suburban subdivisions, and that inclusionary zoning requirements will drive development out of urban

centers, encouraging sprawl and exacerbating affordability problems. Evidence from the five cities profiled in this article, including interviews with planning staff, shows this to be unlikely. City staff in San Francisco report that the overall pace of development has actually accelerated since passage of the mandatory inclusionary housing ordinance—not surprising considering the broad experience of inclusionary housing programs across the country. In fact, analytical studies, anecdotal evidence, and developer and community reaction from communities nationwide indicate that inclusionary housing programs have not caused overall levels of development to slow.

Large-city administrators must not buy into the misconception that inclusionary housing will . . . drive development out of urban centers.

Three of the cities profiled provide little in the way of cost offsets to developers. Most inclusionary housing programs include density bonuses, flexible zoning, fee waivers, an expedited permitting process, or other benefits to help developers offset the cost of producing affordable homes. The San Diego, San Francisco, and Boston programs appear to be working quite well despite offering little or no cost offsets. Denver and Sacramento provide a generous list of offsets, and on balance, have created more affordable units (which could be attributed to many factors independent of the inclusionary ordinance) than their counterparts. This fact demonstrates the importance of carefully examining and understanding the local housing market when designing a program.

Who is being served? Inclusionary housing programs in large cities can be a flexible tool serving a wide variety of income levels. A large-city program need not serve only households at or near 100 percent of the median income. Denver, the most productive of the large-city programs, provides for the “deepest” income targeting, primarily serving households at 65 percent of the AMI in rental units and 80 percent of the AMI for owner-occupied units. Similarly, Sacramento targets

its program so that two-thirds of the housing units produced will serve very-low-income households (households below 50 percent of the AMI). One-third of the housing units produced serve households at or below 80 percent of the AMI.

Denver and Sacramento provide developers with some flexibility in complying with these eligibility requirements. Denver developments that are taller than three stories, equipped with elevators, and where over 60 percent of the parking is in a parking structure may have affordable for-sale units priced up to 95 percent of the AMI and rental units up to 80 percent of the AMI. In Sacramento, on small projects (less than 5 acres), a developer may meet the inclusionary obligation by pricing all of the affordable homes at or below 80 percent of the AMI if all the homes are for-sale units and on-site. In addition, with special approval, small condominium developers may price two-thirds of the affordable units below 80 percent of the AMI and one-third of the affordable units below 50 percent of the AMI.

Programs in large cities also can create a mix of income levels, with some units going to moderate-income households and others to low-income households, as is done in Boston and San Diego. Finally, a large city can successfully use an inclusionary housing ordinance for moderate- to middle-income residents, as in San Francisco, which sets the highest income targets of the five cities profiled.

NOT JUST FOR SUBURBS AND SMALL CITIES ANYMORE

After decades of decline, American cities are on the rebound. But continued success cannot be taken for granted. Ensuring the future growth and vitality of large urban centers



Photos by Michael Davidson

requires deliberate policies and significant political will. Census data for 2003 show that cities such as Chicago, which saw population gains from 1990 to 2000, have again begun losing population to suburbs with better housing options for working-class households. Large U.S. cities must preserve affordability for a broad range of income levels if they wish to maintain and enhance their place in the global economy and provide a desirable environment for moderate-income households.

Inclusionary housing is working in the cities profiled in this article and elsewhere. Though a versatile tool in the creation of affordable housing without having to use major public subsidies, inclusionary housing programs cannot be the only answer to housing needs. Until there is a more effective option, inclusionary zoning does offer U.S. cities a market-based policy tool that can help with this critical effort.

A selection of inclusionary housing ordinances featured in this article is available to *Zoning Practice* subscribers by contacting the Planning Advisory Service (PAS) at placeaninquiry@planning.org.

The author thanks Lauren Goldberg and Jessica Webster for hours of research, interviewing, and writing that contributed to this article; Susannah Levine and Ellen Elias for editing assistance; David Rusk and Teresa Ojeda at the City of San Francisco; and Beverly Fretz-Brown and Emily Hottle at the City of Sacramento for assistance in providing photographs for this article.



NEWS BRIEFS

AFFORDABLE HOUSING GETS HUGE BOOST ON LONG ISLAND

By Josh Edwards

In August, Southold, New York, passed an ordinance requiring developers to set aside 25 percent of the new units as affordable housing for every subdivision over five units. The ordinance passed unanimously with strong support from both residents and developers. Lacking any loopholes, the ordinance will require the highest percentage of affordable units on Long Island, a measure intended to help stem the alarming affordable housing shortage in this mostly affluent eastern section of the island.

After months of refinement, the board agreed on the details: one quarter of all units must be affordable to individuals or families earning at or below 80 percent of the median income for the county, which is \$68,250. In May, Southold approved a housing fund to accompany the ordinance. Funds will be distributed in the form of grants and low- and no-interest loans for income-eligible residents for affordable units and will also be used directly for the creation of affordable housing. Developers who choose not to meet the 25 percent requirement must pay a fee toward the housing fund to subsidize affordable units elsewhere in town. Southold is using the fund to ensure that affordable units remain permanently affordable. Affordable units are resold to the housing fund at market-rate prices. Buyers then purchase the units from the housing fund at the lower subsidized price.

County Supervisor Joshua Horton describes the affordable housing ordinance as “a giant step forward” and notes that Southold and other nearby communities have reached a crisis point as home prices escalate beyond the reach of most prospective residents. The average home price in Southold surpassed \$500,000 in 2003. Not surpris-

ingly, vacation homes of wealthy New Yorkers inflate area home values, and encroaching sprawl from the metro area exacerbates the problem. Though development translates into property tax revenues for the affected Long Island towns, it also forces many people to live elsewhere. Town officials say the affordable housing shortage is a threat to the local economy, as workers in lower-paying jobs simply cannot afford to live in the area. Even Horton commutes to work from a nearby town because Southold is too expensive. Officials hope the ordinance will combat gentrification and attract young professionals and families who may not otherwise be able to afford a home in Southold.

Copies of the Southold, New York, affordable housing ordinance, and the ordinance establishing the affordable housing fund, are available to *Zoning Practice* subscribers by contacting the Planning Advisory Service (PAS) at placeaninquiry@planning.org. Josh Edwards is a researcher with the American Planning Association in Chicago.

Cover photo: A 345-unit luxury condominium development in San Francisco. Thirty-three units are affordable under the San Francisco ordinance. Photo provided by the City of San Francisco Planning Department.

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Some of the country's largest, most expensive cities are still without mandatory inclusionary housing programs and must rely on other approaches to offer low- and moderate-income residents respectable housing. In these two historic buildings in Chicago's gentrifying Edgewater neighborhood, resident income levels are 50 - 60 percent of the AMI. Federal low-income housing tax credits and an extended-use agreement secure the affordability of the units for 30 years. Without the diligence of neighborhood advocates, the local alderman, and a supportive developer, the projects would not have happened.

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➔ WEB RESOURCES

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