

Updating Affordable Housing Requirements

October 2020



About Us

Street Level is a strategy and innovation firm focused on equitable urban development.

We apply a deep understanding of urban economics and local policymaking to drive innovation for more inclusive cities.



Recent Clients

San Francisco

LA County

Denver

Seattle

New York

Atlanta

Minneapolis

The Knight Foundation

Grounded Solutions Network

PolicyLink

Enterprise Community Partners

Local Initiatives Support Corporation

The Ford Foundation

F. B. Heron Foundation

Existing Affordable Housing Requirements

- Inclusionary Housing Ordinance (Ownership)
- Affordable Housing Mitigation Fee (Rental)
- Condo Conversion Ordinance
- Live-Work Ordinance
- Demolition Ordinance



Affordable Housing Requirements

GOAL:

Apply more consistent affordable housing requirements to different types of residential projects.

POTENTIAL CHANGE:

Create a new “Affordable Housing Requirements Ordinance” (AHRO) which entirely replaces the IZ and AHMF ordinances and replaces the affordable housing requirements sections of the Condo Conversion Ordinance and Live work ordinances.



Other Potential Changes

- Incentivize or require onsite units
- Expand the menu of compliance options
- Expand income targeting
 - Extremely Low Income
 - Moderate Income
- Update condo conversion requirements
- Adjust unit size rules
 - Encourage family sized (3 br) units
 - Discourage 4+ bedroom units
- Revise requirements for small projects



An aerial photograph of a city, likely San Francisco, taken from a high vantage point. The foreground is dominated by dense green trees on a hillside. The middle ground shows a dense urban area with various buildings and structures. In the background, a large body of water (the bay) is visible, with a bridge (the Golden Gate Bridge) in the distance. The sky is filled with soft, colorful clouds, suggesting a sunset or sunrise. The overall lighting is warm and golden.

Fees vs Units

Fees vs Units

UNITS

FEES

Advantage

Promote economic integration

Efficiency and leverage enable more housing

Limitations

Benefits of economic integration are sometimes overstated

Efficiency is not automatic – many cities don't achieve it.

The Case for Units



How important are mixed income communities?


Differences in neighborhood poverty rate mattered more than parents education, occupation or other family characteristics

Sharkey, Patrick. 2009. Neighborhoods and the Black-White Mobility Gap. Economic Mobility Project: An Initiative of the Pew Charitable Trust.

NEIGHBORHOODS AND THE BLACK-WHITE MOBILITY GAP

BY PATRICK SHARKEY





Moving to an economically integrated community improves the life chances for lower income kids - the earlier they move the greater the benefit

*The Equality of Opportunity Project
(Chetty and Hendren, 2015)*



Our affordable housing programs have not been successful in accessing higher opportunity neighborhoods.

Median Quality of Nearest School

**PUBLIC
HOUSING**

19th Percentile

**TAX
CREDITS**

30th Percentile

**HOUSING CHOICE
VOUCHER HOLDERS**

26th Percentile

Ellen, Ingrid Gould, and Keren Mertens Horn. 2012. "Do Federally Assisted Households Have Access to High Performing Public Schools? Civil Rights Research." Poverty & Race Research Action Council (NJ1).

Median Quality of Nearest School

**PUBLIC
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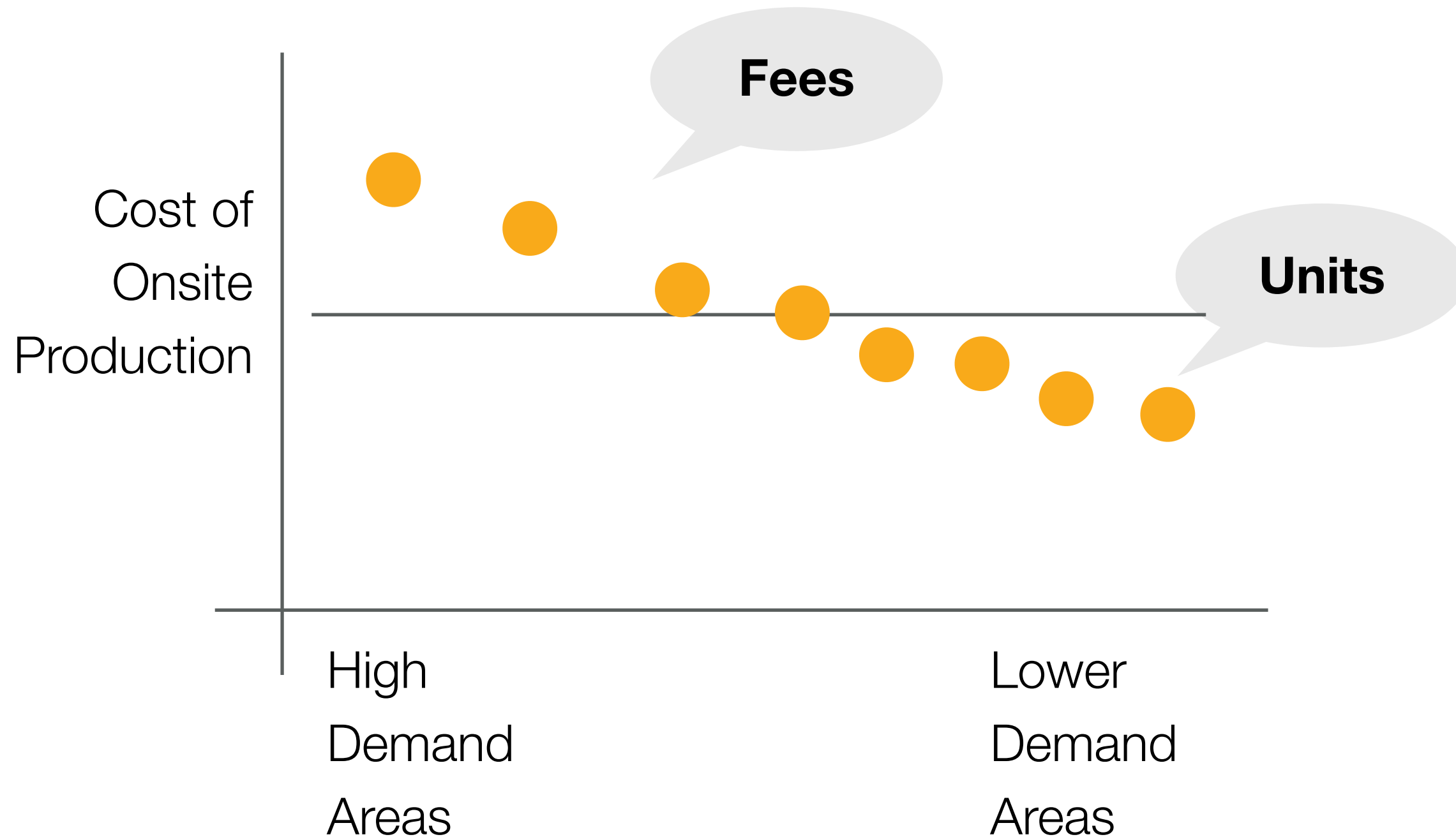
26th Percentile

**INCLUSIONARY
HOUSING**

*40th to 60th
Percentile*

Schwartz, Heather L., Liisa Ecola, Kristin J. Leuschner, and Aaron Kofner. 2012. "Is Inclusionary Zoning Inclusionary? A Guide for Practitioners. Technical Report." RAND Corporation.

Who pays the fee?



FINDINGS:

Denver found that projects in expensive neighborhoods chose the fee while those in lower cost areas chose to provide units onsite.

The Case for Fees



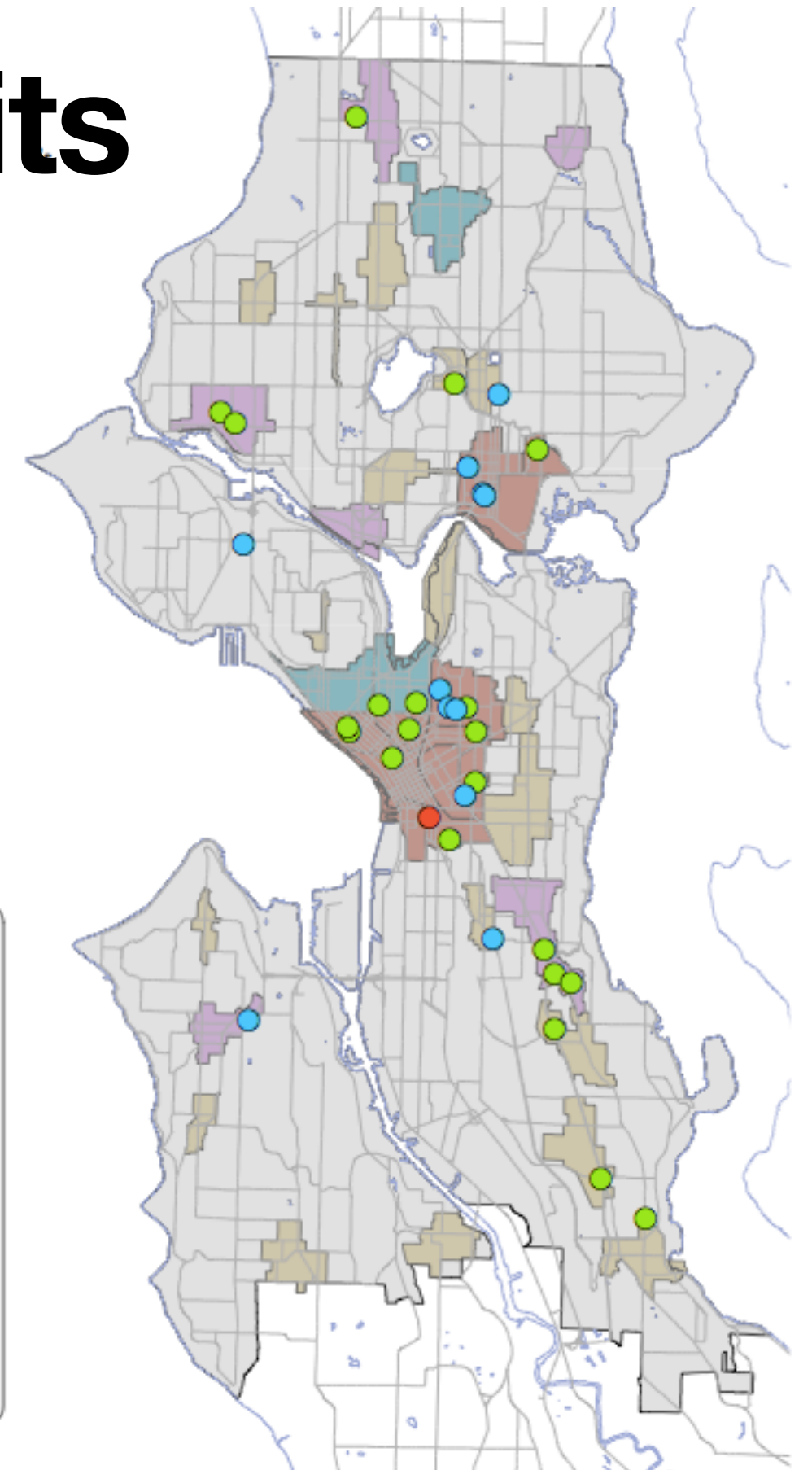
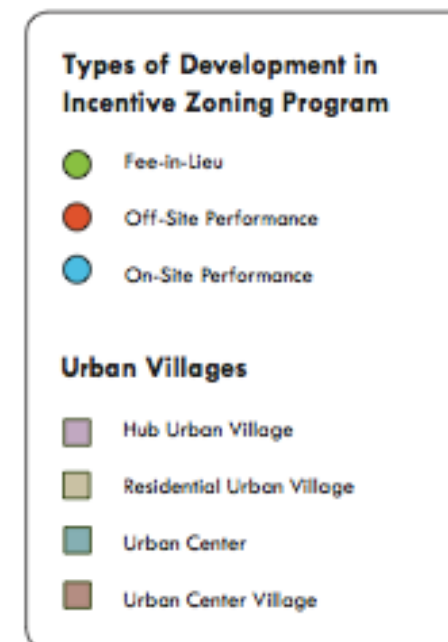
HARPER CROSSING SENIOR APARTMENTS
ELEVATION ON MLK JR. WAY



Example of Fee Funded Units

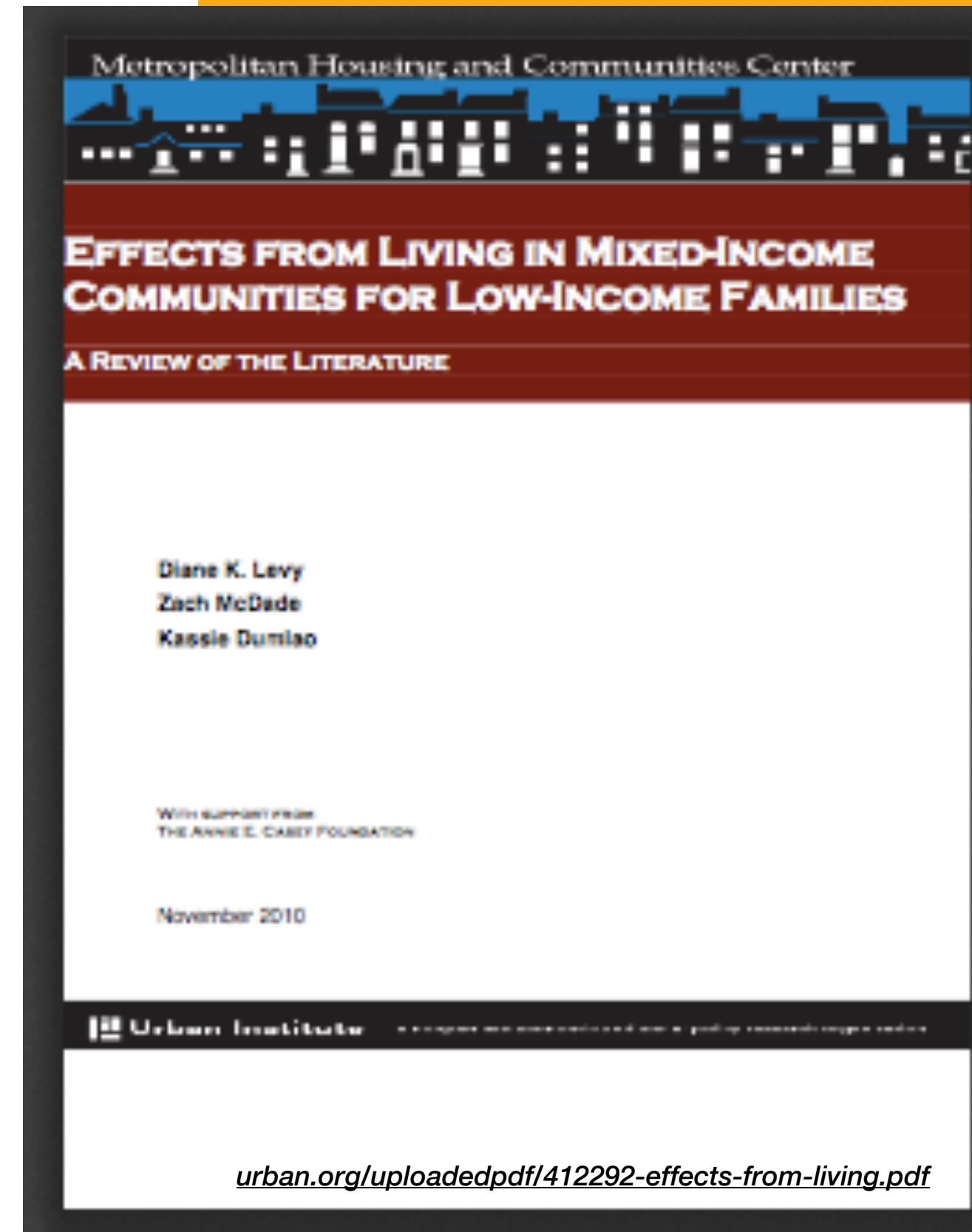
Seattle was able to use in lieu fees to build **three times as many** units as would have been provided onsite

- The fee funded units were all within 1/2 mile of the market projects
- They served families at ~40% of AMI rather than 80%



Benefits of Economic Integration

- Increased Employment Rate
- Access to Better Schools
- Access to Better Services
- Improved Physical & Mental Health
- Improved Self Esteem
- Access to “Social Capital”





So, while living in a mixed income **neighborhood** seems to make a difference, living in a mixed income **building** may not add additional benefits.

How does this apply to Berkeley?



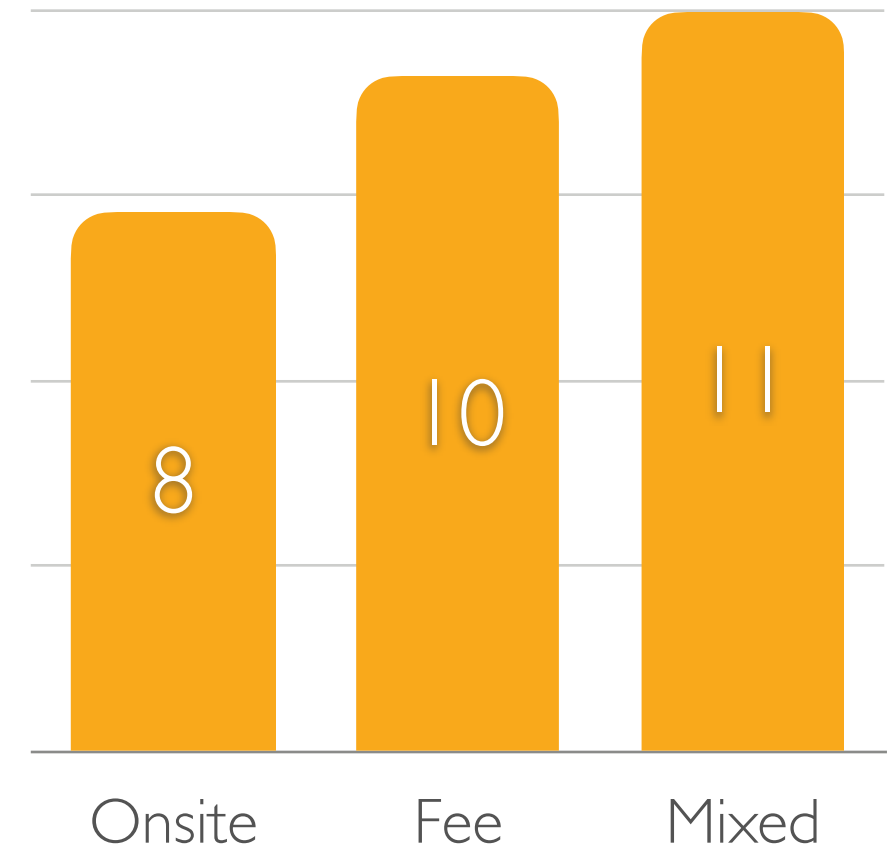
Berkeley Compliance

2013 - 2020

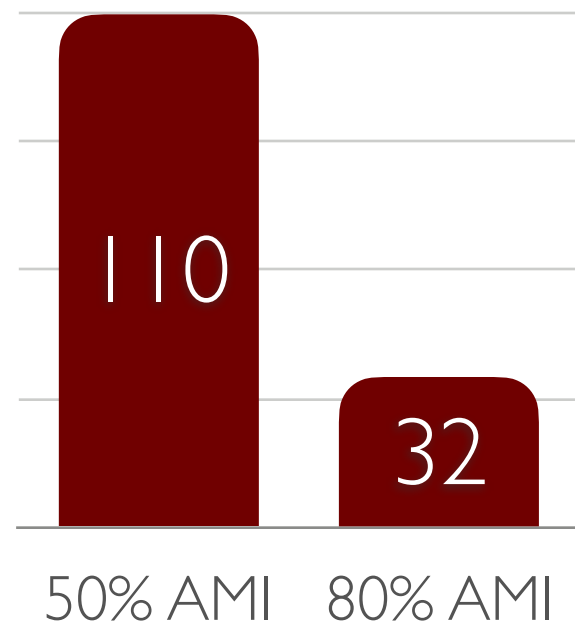
Summary

Total Projects	29
Fees Collected	\$11,391,000
Affordable Units	142

Compliance Option (# of Projects)



Affordable Units



Many projects provide 11% Very Low Income Units to qualify for the **State Density Bonus** and pay the fee for the remainder.

Key Numbers

** Based on hypothetical project*

Est. reduction in value due to 1 onsite unit:

~\$425,000*

**Current fee of \$39,746/unit
Equates to fee per onsite unit:**

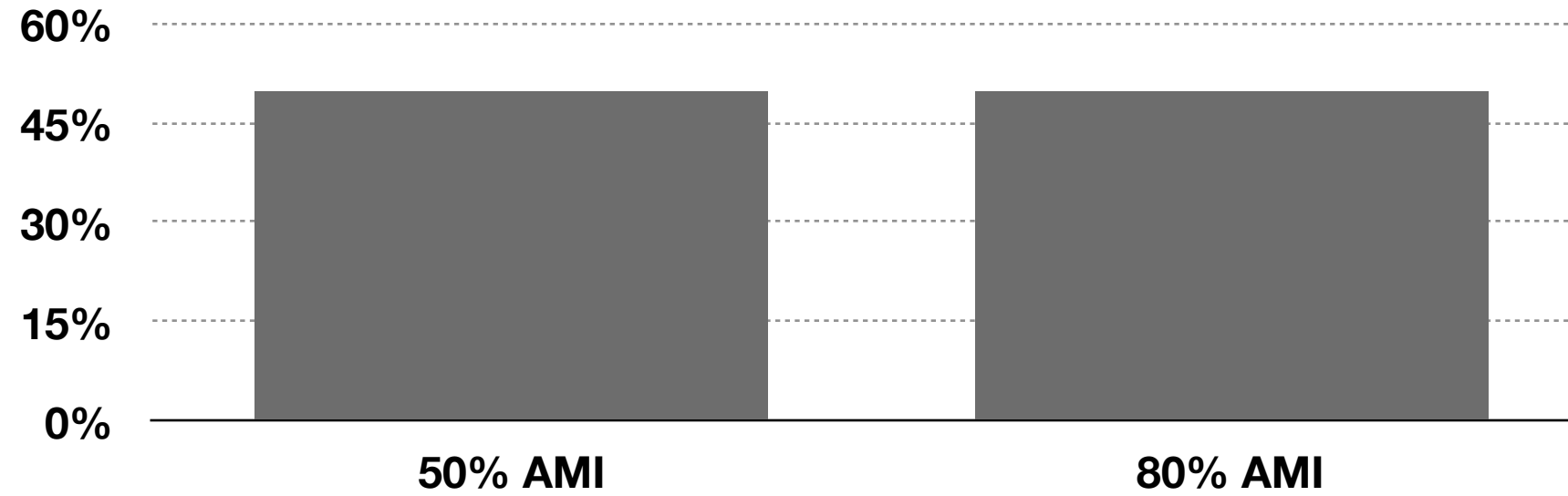
\$198,730

Approx. local cost to subsidize an affordable unit:

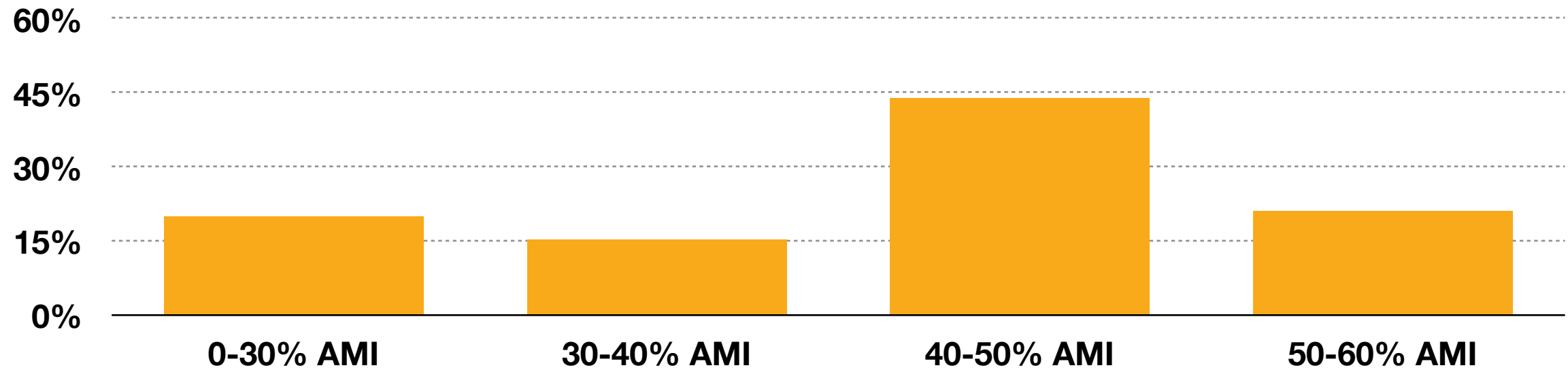
\$150,000 to \$225,000

Income Mix

Berkeley AHMF Projects



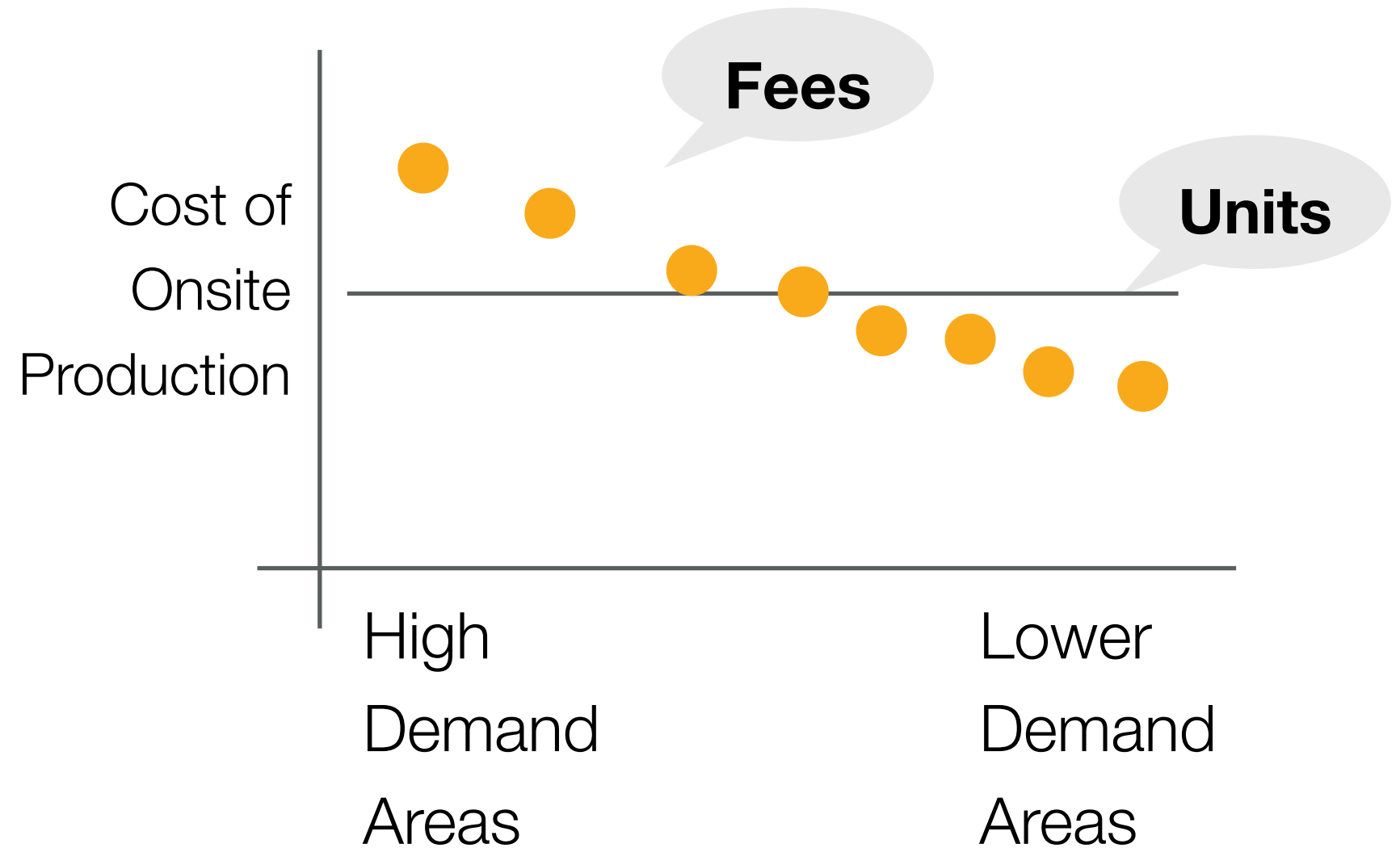
Tax Credit Projects (Statewide)



What about in Berkeley?

Berkeley's fee is much less than the cost of providing onsite units.

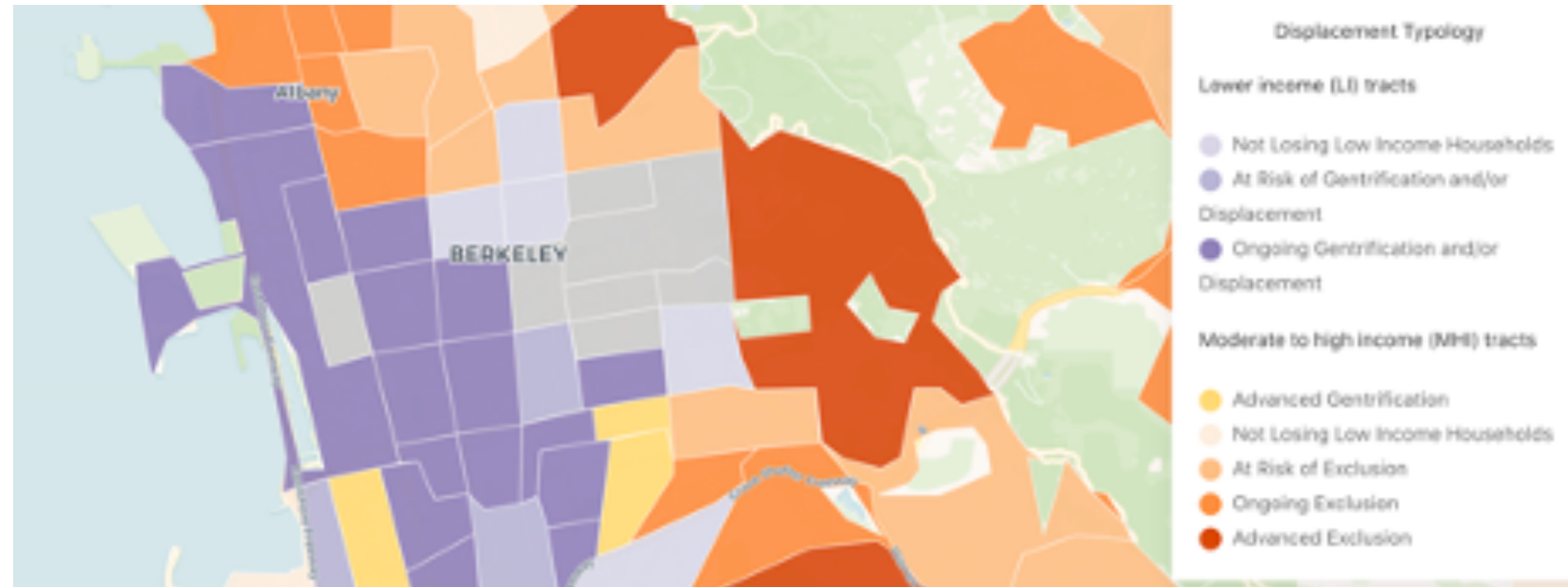
But it is so much lower that the fee is likely the preferred option in every part of the city.



Criteria

GOAL:

Establish a clear principle for where the city 'wants' fees and where it wants units.



Urban Displacement Project

POTENTIAL CHANGES:

Opportunity Locations: Some cities require or encourage onsite units in areas where affordable projects are less likely.

Combatting gentrification: Some cities require or encourage onsite units in neighborhoods facing gentrification and displacement.



Encouraging On Site

OPTION 1: Prohibit payment of fees in every project

OPTION 2: Prohibit fees in Opportunity Zone locations

OPTION 3: Create local density bonus tiers in order to encourage but not require onsite (like Adeline Corridor Plan)

OPTION 4: Adopt a map of 2-3 zones. Allow both onsite and fee in both zones but make it more attractive to pay the fee in some zones and more attractive to provide units in other zones.

An aerial photograph of a city at sunset. The sky is a mix of blue and orange, with scattered clouds. The city below is densely packed with buildings, and a large body of water is visible in the distance. The foreground is dominated by lush green trees. The title 'Compliance Options' is centered in white, bold, sans-serif font. A thin yellow horizontal line is positioned below the text.

Compliance Options

Compliance Options

Goal: Provide additional options for developers to meet their affordable housing requirements



POTENTIAL CHANGES:

Land Dedication: Allow builders to donate land to the City or a nonprofit developer instead of providing onsite units or paying a fee.

Rehabilitation Credit: Allow builders of new housing to provide permanently affordable housing units in renovated buildings nearby.

San Jose offers numerous options for developers to comply with its Inclusionary Housing Ordinance.

MENU OF COMPLIANCE OPTIONS

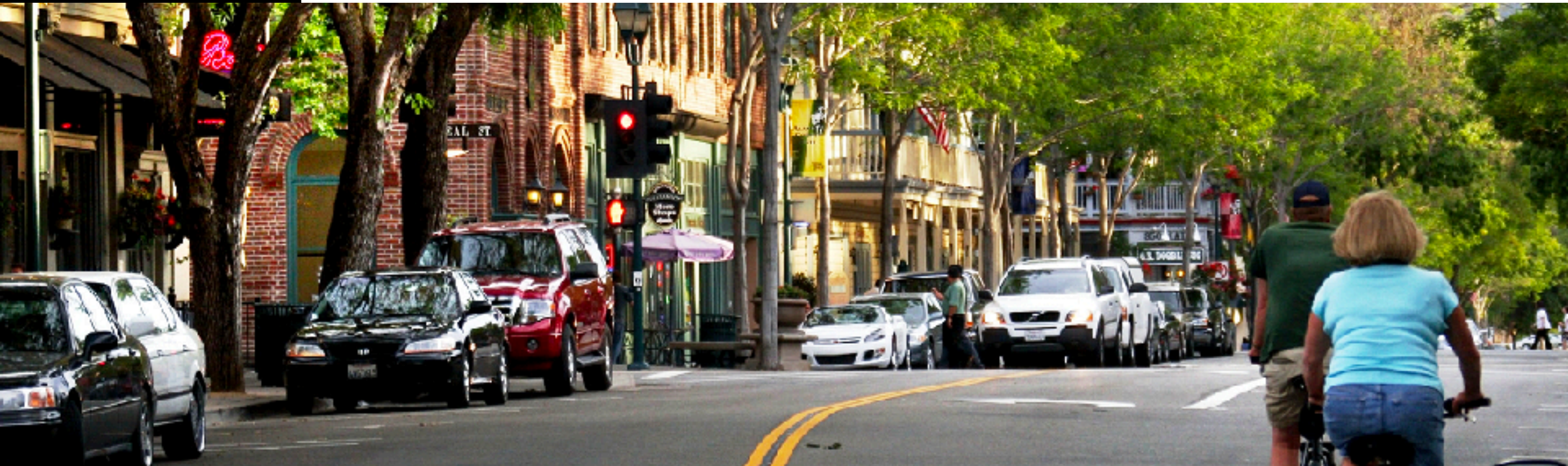
San Jose, CA

OBLIGATION		FOR-SALE	RENTAL
On-Site	15%	Purchasers must be at or below 120% AMI	9% at MOD (80% AMI) 6% at VLI (50% AMI)
Off-Site	20%	Purchasers must be at or below 120% AMI	12% at LI (60% AMI) 8% at VLI (50% AMI)
In-Lieu Fee	20%	In-lieu fee per Inclusionary home is \$157,858 (July 1, 2020 to June 30, 2021)	In-lieu fee per Inclusionary unit is \$125,000 (July 1, 2020 to June 30, 2021)
Dedication of Land	20%	Marketable title, general plan designation zoned for residential development and at a density required, and suitable for inclusionary units. Must comply with the requirements as listed in the Municipal Code 5.08.530.A.	
Surplus In-Lieu Credits	20%	Developers may purchase or transfer credits for affordable housing units that are available for occupancy concurrently with market rate units. Must comply with the requirements as listed in the Municipal Code 5.08.540.C.	
Acquisition and Rehab of Units	20%	Rehabilitate existing market rate units for conversion to units affordable to Lower and Very Low Income Households. Number of Rehabilitation units must be 2 to 1 of the base inclusionary obligation. Must comply with the requirements as listed in the Municipal Code 5.08.550.	
HUD Restricted Units	20%	Developers may provide units that are restricted to Affordable Housing Cost for Lower or Very Low Income Households through entering into an agreement with the U.S. Department of Housing and Urban Development (HUD). Must comply with the requirements as listed in the Municipal Code 5.08.560.H.	
Combination of Methods	20%	Developers may propose any combination of methods to satisfy the project's inclusionary housing obligation. Must comply with the requirements as listed in the Municipal Code 5.08.570.	

LAND DEDICATION

Pleasanton, CA

- The City asks all multi-family developments to make 15% of units affordable to households at or below 80% AMI
- Alternatively, developers can dedicate a parcel of land meeting certain requirements to the City or an agreed upon nonprofit developer in lieu of constructing affordable units





ACQUISITION AND REHABILITATION

Minneapolis, MN

- As an alternative to building affordable units, the City allows developers to preserve naturally occurring affordable housing within a ½ mile radius of their project
- Rehabilitated units must be made affordable to households making at or below 50% AMI
- The developers typically must rehabilitate about twice as many units as they would be required to build on-site
- The City assesses the property to determine the value of rehabilitation before agreeing to the off-site preservation project

An aerial photograph of a city at sunset. The foreground is dominated by dense green trees on a hillside. In the middle ground, a city with various buildings and structures is visible. The background shows a large body of water, likely a bay or ocean, with a bridge visible in the distance under a sky with soft, orange and blue hues. The title 'Income Targeting' is centered in white text with a thin yellow underline.

Income Targeting

Extremely Low Income Units

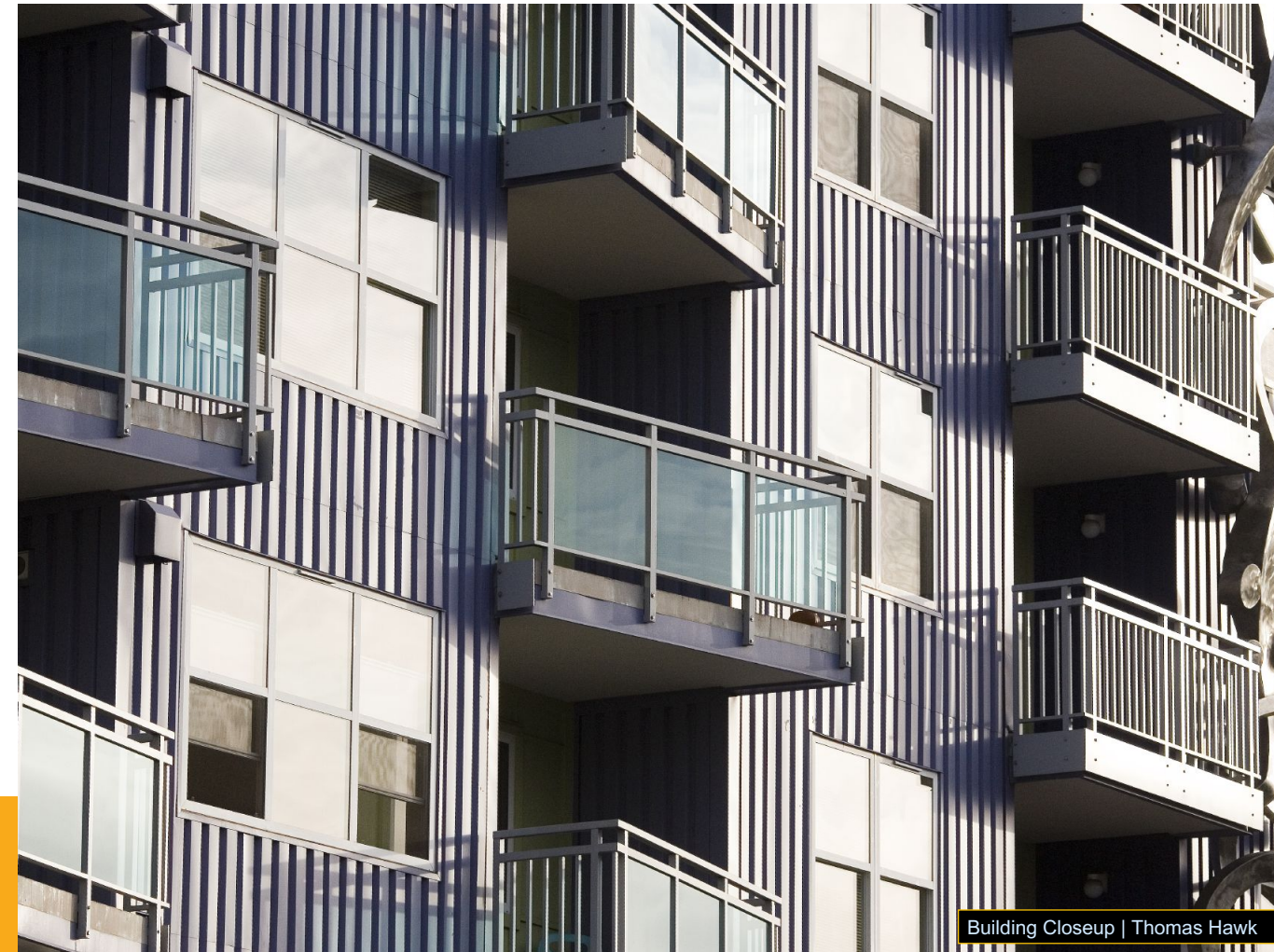
GOAL:

Create an incentive to encourage developers to provide affordable units that serve Extremely Low Income (ELI) tenants (earning less than 30% of AMI).

POTENTIAL CHANGES:

Menu: Allow developers to choose to provide more units targeting higher income residents or fewer units targeting lower incomes.

Voucher Requirements: Require developers to serve ELI tenants by utilizing Housing Choice/Shelter + Care Vouchers.





EXTREMELY LOW INCOME UNITS

New York, NY

There are three ways for developments to meet the Mandatory Inclusionary Housing requirements, one of which targets extremely low-income residents

1. 20% of the total residential floor area must be for housing units for residents with an average of 40% AMI
2. 25% of residential floor area must be for affordable housing units for residents with an average of 60% AMI
3. 30% of residential floor area must be for affordable housing units for residents with an average of 80% AMI

Voucher Requirements

CURRENT RULES:

Half of onsite affordable units must target 50% of AMI households.

Of those:

- 40% offered to Housing Choice Voucher holders (Housing Authority), and;
- 40% offered to Shelter + Care Voucher Holders (Housing Dept.)

POTENTIAL CHANGE:

Menu: Require all 50% AMI Units to be offered to voucher holders first. Allow choice of either voucher program.

Moderate Income Units

GOAL: Allow developers to serve moderate income households earning up to 100% of AMI.

POTENTIAL CHANGE:

Menu: Allow developers to choose to provide more units targeting 100% of AMI residents or fewer units targeting lower incomes.



An aerial photograph of a city at sunset. The foreground is dominated by dense green trees on a hillside. In the middle ground, a city with numerous buildings is visible, including a prominent multi-story building. The background shows a large body of water, likely a bay or harbor, with a bridge visible in the distance under a sky with soft, orange and blue hues. The title 'Condo Conversions' is centered in white text with a thin yellow underline.

Condo Conversions

Condo Conversions

CURRENT RULES:

Since 1992 Berkeley has required an affordable housing mitigation fee when someone converts a rental unit to condo.

On paper the fee is calculated based on a complex 'nexus formula' which captures essentially all of the increase in value from conversion.

No one has paid the full fee.



Condo Conversions

CURRENT RULES:

In 2005, State law forced the cities to allow Tenants-in-common conversions and Berkeley responded by making it easier to convert to condo ownership.

Conversion fee is reduced to 8% of sales price if owner agrees to limit future rent increases for any tenants who continue renting.

POTENTIAL CHANGES:

Expand Eligibility:

Apply the 8% of sales price to all condo conversions

Tenant Purchasers

CURRENT RULES:

In buildings with 3+ units, Condo Conversion fees are reduced by 50% if the owner has lived in the building for 5 years and lived in the unit on June 30, 2010.

POTENTIAL CHANGES:

Expand Eligibility: Remove the reference to June 30, 2010 and apply the 50% reduction to buildings of any size.



An aerial photograph of a city at sunset. The foreground is dominated by dense green trees on a hillside. In the middle ground, a city with various buildings and structures is visible. In the background, a large body of water (likely a bay or harbor) stretches across the horizon, with distant mountains and a bridge visible under a sky with soft, colorful clouds. The text "Larger Units" is centered in the middle of the image in a large, white, sans-serif font. A thin yellow horizontal line is positioned directly below the text.

Larger Units

Family Sized Units

GOAL:

Create an incentive to encourage developers to build affordable 2 and 3 bedroom units even in buildings with smaller market rate units.

POTENTIAL CHANGES:

% of Floor Area: Calculate requirements as a % of floor area rather than % of Units. Require larger projects to include some # of family sized units.

Room Factor: Allow developers to provide fewer affordable units if they offer larger units



FAMILY-SIZED UNITS

Cambridge, MA

- Developments of 10+ units must reserve 20% of the floor area for units affordable to households with 50-120% AMI
- Projects of at least 30,000 sq ft must provide 1 family-sized unit per 6,000 sq ft of total floor area.
- Family sized is defined as 3-br units at least 1,100 feet.



FAMILY-SIZED UNITS

Honolulu, HI



- Honolulu requires 10% of units be affordable
- They assume these will be 2-br units but allow developers to build larger or smaller units
- If they build smaller units they have to provide more of them

UNIT TYPE	0-BR/ 1-BA	1-BR/ 1-BA	2-BR/ 1-BA	2-BR/ 1.5-BA	2-BR/ 2-BA	3-BR/ 1.5-BA	3-BR/ 2-BA	3+BR/ 2+BA
ROOM FACTOR	0.68	0.81	0.92	1.00	1.08	1.16	1.28	1.44

Co-living Projects/ Large Units

CURRENT RULES:

Fees and onsite requirements are calculated per unit.

Creates an incentive to build units with 4 or more bedrooms in order to reduce fees.



Co-living Projects/ Large Units

GOAL:

Remove incentive for developers to build units with many bedrooms (4+) in order to reduce affordable housing requirements. Avoid monitoring and qualification challenges.

POTENTIAL CHANGES:

Fee per Foot: Calculate the Mitigation Fee on a per foot basis instead of per unit.

Require fee: Require projects with an average of 4 or more bedrooms per unit to pay the fee instead of providing onsite units



Per Square Foot Fee

A fee of **\$45** per net residential foot would generate a total cost equivalent to the current AHMF (for projects with an average unit size of 900 feet)

An aerial photograph of a city at sunset. The foreground is dominated by dense green trees on a hillside. In the middle ground, a city with various buildings and structures is visible. The background shows a large body of water, likely a bay or ocean, with a bridge visible in the distance under a sky with soft, colorful clouds. The overall lighting is warm and golden, characteristic of the 'golden hour' of sunset.

Small Projects

Small Projects

CURRENT RULES:

The Affordable Housing Mitigation Fee applies to projects with 5 or more units. Smaller projects are exempt.

Developers can achieve exemption by subdividing lots into multiple projects of fewer than 5 units.



Small Projects

GOALS:

Encourage 'missing middle' sized projects

End subdivision loophole

Reduce the administrative burden on staff to monitor projects with very few BMR units.



Opticos Design

POTENTIAL CHANGES:

Phase in the Fee: Require AHMF for all newly constructed units. Reduce the fee for 1-20 unit projects.

Minimum # of BMRs: Require payment of the mitigation fee for projects that would have fewer than 5 BMR units on site.

SMALL PROJECTS

Boulder, CO



- Inclusionary housing ordinance applies to for sale and rental projects as small as 1 unit
- Small projects (1-4 units) have a lower requirement
- Builders of single family units can elect to defer the fee until the time of sale of their unit
- ADU units are exempt

SMALL PROJECTS

Redwood City, CA

- The Affordable Housing Ordinance applies to residential developments of 5+ units
- For smaller projects of 5-19 units, developers are required to pay an affordable housing impact fee
- Smaller projects cannot avoid the fee by building affordable units
- Larger projects are required to construct affordable units



An aerial photograph of a city at sunset. The foreground is dominated by dense green trees on a hillside. In the middle ground, several large, light-colored buildings are visible, likely a university campus. The background shows a vast cityscape extending to a large body of water, with mountains in the distance under a sky with soft, orange and blue clouds. The title 'Hardship Waivers' is centered in white text with a thin yellow underline.

Hardship Waivers

Hardship Waivers

GOAL:

Allow some flexibility so that the City can maintain high affordable housing requirements when possible but avoid requirements that are too high for new housing to be built.

POTENTIAL CHANGES:

Front End: Allow developers to request a limited reduction in their requirements when they provide evidence that projects would not be financially feasible.

Back End: Allow developers to pay a reduced fee initially but provide city with a share of gains (ie. pay a higher fee later based on final costs and revenues.)



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Live-Work Units

Live-Work Projects

CURRENT RULES:

Live-work developments are exempt from Affordable Housing Mitigation Fee and Inclusionary Housing Ordinances.

Live-work ordinance requires 20% affordable units (at 80% of AMI). Few other rules.

BMR live-work units must be ‘affirmatively marketed’ to low income people whose type of work requires a larger space.



POTENTIAL CHANGES:

Remove Exemptions: Apply same AHMF or IZ requirements to Live-work projects.

Administrative Changes

Cap Annual Rent Increases

Administrative Citations for
Compliance Violations

Monitoring Fee for Ownership Units

Adjusting Affordable Rent for
Mandatory Fees



Next Steps



OCTOBER:

Stakeholder Input Sessions



NOVEMBER:

Policy Change Recommendations



DECEMBER/JANUARY:

Financial Feasibility *(if possible)*



FEBRUARY:

Final Recommended Changes to
Council/Planning Commission

Financial Feasibility

Uncertainty in real estate markets makes this a difficult year to evaluate the financial feasibility of affordable housing requirements





Thank You

Rick Jacobus

Principal

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