ABSTRACT

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Inclusionary Zoning: Promoting Affordable Housing in the Southeastern United States
(Under the Direction of DR. ANDREW CARSWELL)

Across the United States, state and local governments are becoming increasingly aware of the need to provide affordable housing to their communities. Affordable housing is widely defined as housing that costs a family no more than 30 to 35 percent of their annual income, including costs for taxes and utilities. Historically, the federal government has been the foremost enactor of policy to promote housing for low to mid-income individuals. Recently, however, local governments are utilizing inclusionary zoning (IZ) programs to provide a sustainable source of low-income housing. The local government of Athens-Clarke County (ACC), Georgia has been one of many in the southeast to add to these efforts. In 2002, an HED study of Athens-Clarke County found that while there exists no real shortage of housing units in Athens, the affordability of these units continues to be a struggle for those earning 30 percent or less of the median family income in the area. Furthermore, the type of new development experienced in Athens has been largely student driven, leading to households clustered together by economic class, and often race, limiting their housing mobility. This paper seeks to examine the use of IZ programs across the country and more specifically in the southeast. Combining an examination of the current literature on IZ practices and using ACC as a case study, implications of adopting IZ ordinances are examined. Subsequently, implications for policy makers are discussed.

INDEX WORDS: Inclusionary zoning, Affordable housing, Southeastern United States, Housing policy, Local governance

INCLUSIONARY ZONING: PROVIDING AFFORDABLE HOUSING IN THE SOUTHEASTERN UNITED STATES

by

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DEDICATION

This thesis is dedicated first and foremost to my parents. Without their unwavering support and constant encouragement, I would not be where or who I am today. This thesis is also dedicated to the Roosevelt Institute at the University of Georgia. The Roosevelt Institute taught me how to research, how to write, and most importantly, how to advocate for sound public policy.

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TABLE OF CONTENTS

CHAPTER 1
INTRODUCTION

Across the United States, state and local governments are becoming increasingly aware of the need to provide homeownership opportunities and affordable housing to their communities. Affordable housing is widely defined as housing that costs a family no more than 30 to 35 percent of their annual income, including costs for taxes and utilities. Historically, the federal government has been the foremost enactor of policy to promote housing for low-income individuals. However, there is a growing need among moderate and middle-income earners for affordable housing. Members of this group, comprised of civil servants, including teachers and firemen, and the service industry are often forced to live outside the communities in which they work and travel long distances to and from work (Schofield and Brown-Graham 2004).
In the last two decades, municipalities across the country have taken on the challenge of providing good-quality affordable units in their areas to this group of middle-income earners. One such policy, inclusionary zoning (IZ) or inclusionary housing, brings the public and private sector together to bind the construction of market-rate housing with the construction of affordable units. Local governments use a variety of methods to ensure that builders are compensated for the construction and units are integrated into market-rate development leading to economic integration of communities. This variety allows for IZ programs to be tailored to each community's needs and housing market.

The available literature on the long-term impact of inclusionary zoning programs on a housing market is still evolving. Most programs either have not been implemented long enough to see any conclusive data or the programs are so different from one another that it is hard to classify what effects the actual ordinance may have. This paper attempts to define characteristics of workable programs and further, using a case study of Athens-Clarke County, Georgia, to discuss where and how inclusionary zoning programs work best.

What is inclusionary zoning?

Zoning in general can be a tool of exclusion rather than inclusion. While originally intended to separate different kinds of development (for example, housing and factories), zoning has instead resulted in segregation by economic standing and race. Especially in suburban areas, zoning frequently mandates minimum lot size requirements, places prohibitions on the development of duplexes and apartments, and requires minimum lot sizes, making it nearly impossible to develop affordable housing in these areas. These zoning policies can often lead to single-family developments with large lot sizes and little mixed-income or mixed-use planning. Inclusionary zoning (IZ) is the attempt to reverse these trends in an effort to promote the development of affordable housing and socio-economically integrate communities. IZ ordinances propose that builders of new developments devote a percentage of their projects to affordable housing in exchange for some non-monetary compensation. This approach is distinguishable from traditional affordable housing programs in that it joins for-profit private developers with traditional public sector funding. The primary goal of inclusionary zoning programs is to provide a stock of "affordable units that can be kept below market-rate prices and remain affordable while compensating private builders for lost profits.

Inclusionary zoning ordinances are flexible tools, with programs operating differently depending on the needs of the city, county, or state governments that implement them.

Mandatory and optional forms of IZ ordinances exist; some require developers to build the affordable housing on the property they are developing, while others allow off-site construction. Some governments also permit builders to contribute to a local housing fund or pay fees rather than actually build the units. Other variations exist to provide developers with alternatives. Some cities give density bonuses or expedited permit processes, while others allow flexibility or exemptions from design requirements, such as sidewalk width or tree planting (Shuetz 2007). Density bonuses grant builders more floor area or permit extra lots in a development and are thus attractive to developers. All these benefits generally compensate for the possible losses the developer may incur after selling the affordable units and have proven to be adequate incentives to build affordable units of good quality.

It is important to note that inclusionary zoning programs require ongoing management from the communities that choose to employ them. This can be done from within the government, but most often a third party, usually a non-governmental organization, manages the property to ensure long-term affordability. A popular choice of non-profit for the task is a community land trust (CLT). CLTs make for a good long-term steward of the properties and can ensure that the units will stay affordable long after the developers have gone. Without the support of a CLT or other non-profit, a municipality can expect to expend one to three full-time employees (FTE) on the administrative end. Additionally, a local government may have to subsidize the non-profit or CLT in this scenario (Schofield and Brown-Graham 2004). This usually occurs when CLT's are already supported by the local government; however, in some areas this may be a part of negotiating the CLT's management of the inclusionary zoning ordinance. Most inclusionary zoning programs choose to keep their units on restricted land leases to ensure affordability. For example, the Athens Land Trust (ALT) in Athens, Georgia requires that affordable units be leased on 99-year renewable leases so that families can remain in the home or on the property as long as they need (Athens Land Trust 2008). Furthermore, if a family chooses to sell the unit, they must either sell it back to the ALT or to another low-income family at an affordable price.

While there is much variation in IZ policies across the nation, some methods prove to be more effective than others. In California, mandatory IZ policies have provided 34,000 affordable units over the past 30 years; in contrast, areas whose IZ programs are voluntary, like Los Alamitos and Long Beach, attributed stagnant production during a time of market-rate boom to their programs' voluntary nature (California Coalition for Rural Housing; Non-Profit Housing Association of Northern California 2003). Different compensations for builders may also prove easier or harder for certain governments to implement. Density bonuses for developers can act as a counter to sprawl, which may be more attractive to urban IZ programs, while waiving requirements like minimum lot size allows for more efficient land use, especially for areas that have smaller amounts of open space to develop. It should be noted here that some debate exists about how effectively incentives reach builders and not just developers. Providing density bonuses as incentives to developers may be enough, however, with the additional affordable units, developers will have to find builders willing to build below market-rate. Developers may in turn provide incentives to those builders, such as giving them discounted rates on the lots. There is no conclusive best practice as of yet; cities, developers, and builders should discuss what incentives are best in each community to continue to promote market-rate development. There are several benefits to using inclusionary zoning programs to provide affordable units to moderate-income earners. Inclusionary zoning provides a direct way to promote affordable housing at the very inception of development, with the developer. By including the private sector, the local government is able to fund the construction of new, quality, affordable units while allowing market-rate growth to continue. Mixing affordable and market-priced housing in new developments can also promote racial and economic integration within the community. The *Villages of East Lake* in Atlanta offer a thriving example of what mixed-income planning can do to improve dilapidated neighborhoods facing issues like poverty and economic stratification. In 1995, the East Lake Foundation turned a neighborhood known for its high crime rates and drug trade into a mixed-income development for the residents of the community. Thomas G. Cousins, the Atlanta businessman responsible for beginning the revitalization of East Lake, stressed the need for a holistic approach to turn around this neighborhood. The neighborhood is now fifty percent market-rate and fifty percent affordable. Affordable units, some of whose residents are on welfare, are situated between market rate housing to fully integrate the socio-economic classes within East Lake. Since then, the neighborhood has seen a ninety-five percent decrease in the crime rate and improvements in education and welfare status of residents (The East Lake Foundation n.d.). While this case is an exceptional success story, an IZ program can begin to reverse the trend of economic division and integrate peoples from different socioeconomic backgrounds. Adopting this type of zoning ordinance and promoting mixed-income development can also offer low and moderate-income residents improved access to better schools, a stronger community, and even emerging job markets (Katz 2003). By integrating communities and allowing all residents to partake in economic development, low and middle-income individuals can have opportunities from which they were previously isolated, whether intentionally or not.

Inclusionary zoning programs have been known to face political and community adversity in terms of implementation. A common concern for these programs is complaints of the NIMBY, or Not In My Backyard, variety. The stigma of affordable housing can sometimes precede itself and some market-rate homeowners may not be keen to allow mixed-income development to occur in reality. One study suggests that most concerns, however, had less to do with NIMBYism and more to do with the general impact of development on the environment, schools, and roads (Schofield and Brown-Graham 2004). Long-term planning that brings many stakeholders to the table to agree on zones where inclusionary zoning can be implemented successfully can mitigate these concerns. Furthermore, political opponents have little room to argue that providing affordable housing hampers development of market housing as this development will occur alongside new affordable housing (California Coalition for Rural Housing; Non-Profit Housing Association of Northern California 2003). Recent studies have shown that in some areas, the implementation of inclusionary zoning programs has even increased market-rate development, such as in San Francisco (Brunick n.d.). Furthermore, these kinds of developments have the added effect of promoting economic growth in an area. A sustained workforce that can afford to live where they work can mean new businesses are attracted to an area and current businesses retained. Ensuring they spend no more than thirty percent of their income on housing also means these families can spend more money in the local economy (Brunick n.d.). The most successful inclusionary zoning programs in the nation have had considerable support from multiple stakeholders within the community. By including both private and public actors in the process of developing an inclusionary zoning program, communities can ensure success.

Who uses inclusionary zoning?

While less research is available on the long-term effects of inclusionary zoning programs on housing markets and general sustainability of these programs, several studies have surveyed existing programs across the United States. Originating as early at the 1970s, inclusionary zoning programs have developed in various capacities from California to Maryland. From state to county and individual cities, inclusionary zoning programs have been constructed and implemented in numerous fashions. Currently, there exist about two hundred mandatory inclusionary housing programs, which have produced over 100,000 affordable homes (Schofield and Brown-Graham 2004). These programs are as varied as the cities, counties, and states they exist in.

Perhaps the most notable and first instance of successful inclusionary zoning implementation occurred in Montgomery County, Maryland. The Moderately Priced Dwelling Unit (MPDU) program originated after the county experienced a serious shortage of affordable housing in the 1970s. Amid public concerns, the bill was revised several times to address questions. The committee included density bonuses to incentivize building in the county and allowed for affordable units to be built off-site. The program set a twelve to fifteen percent requirement of new developments to be affordable housing and to be resold at controlled rates for ten, fifteen, or thirty years depending on when the unit was sold initially (DHCA n.d.). The program achieved 12,000 affordable units in 2005 and MPDUs now constitute three percent of the housing stock in the county. The Montgomery County program has been heralded by IZ advocates as a model program and critiqued for bringing more congestion into the county by offering high-density bonuses. The county has been able to stave off these challenges, however, by implementing the proper infrastructure to support the development and dispersing the development throughout the county (DHCA n.d.). Arguably, the real success of Montgomery County's successful implementation of their IZ program came from political will and the ability to bring many different stakeholders to the table before enacting any new policies.

One of the first to use the technique, California mandated statewide density bonuses to developers seeking to build affordable units in 1979, creating a kind of voluntary IZ program in places where no official ordinance existed. The programs that have seen the most success in California have been mandatory and a majority of communities has made at least one major revision to their programs after initial implementation (Shuetz 2009). Programs in California have also tended to include provisions for low and very-low income earners, while most programs tend to focus on moderate to middle-income earners. In the last decade, IZ programs in California have increased by two-thirds, signaling a growing interest in IZ programs as a successful means of providing affordable housing (California Coalition for Rural Housing; Non-Profit Housing Association of Northern California 2003).

The east and west coasts of the United States have seen the most prolific growth in inclusionary zoning programs over the past three decades. Only recently have programs in the southeast emerged. North Carolina boasts two successful locally initiated inclusionary zoning programs centered in Davidson and Chapel Hill. Both cities have enjoyed success with mandatory and conditional programs, respectively (Schofield and Brown-Graham 2004). The ordinance was adopted only several years ago, but initial surveys report no slow to development in Chapel Hill and success providing affordable housing options to those earning around sixty-five percent of the median income.

The success of the Chapel Hill program can be attributed to the specifics of implementation. The program works in tandem with an existing land use restriction that requires twenty-five percent of developments with five or more units to be size restricted. For a developer to get out of this size restriction, the developer can instead devote fifteen percent to affordable units (Chapel Hill Land Use Regulation Ordinance § 3.8.5). Additionally, the developer can instead pay fees in lieu of the affordable units that are calculated based upon the estimate cost of providing affordable housing in that development set by the city. Thus, fees in lieu in this instance are approximate to costs incurred by the actual building of affordable units. This is important because if fees in lieu are calculated to be far less than the cost of building and developers will choose to pay fees every time. For example, the city of Franklin, Tennessee is currently taking small steps to incorporate an inclusionary zoning ordinance to promote affordable housing in the area. However, the most recent ordinance resulted in fees far lower than the cost of erecting affordable units (City of Franklin 2010). The ordinance requires that if a developer approaches the city to request additional density, they can pay fee in lieu at the rate of 2.5% of the value of the additional lots requested. For example, for ten lots appraised at $60,000 each, fees would total only $15,000. In this case, fees would be paid more often than affordable units produced if not every time. Fees paid would most likely go towards efforts to provide affordable housing. If a city prioritizes a housing fund over private sector building of units, this may not be a bad thing. However, in order to promote actual creation of units, municipalities should ensure that fees in lieu are not exceedingly low compared to the cost of building units.

CHAPTER 2
CASE STUDY: ATHENS-CLARKE COUNTY, GEORGIA

The general lack of locally initiated programs in the southeastern United States that provide affordable housing and the success of a small town like Chapel Hill beg a question about the versatility of IZ programs. Can programs that have largely thrived in metropolitan coastal cities and the northeast be employed across the southeast? A closer examination Athens-Clarke County (ACC), Georgia provides some possible answers and implications for adopting such programs in smaller municipalities.

With a strong university and student presence in the community associated with the University of Georgia, the ACC government has a unique responsibility to both provide for its permanent residents and be a home for the academic community. This relationship has an especially tangible impact on housing in the area, as the University of Georgia cannot house all of the roughly 33,000 students it enrolls (University of Georgia 2010). As new developments, built to cater to the needs of students, compete with housing for regular residents, some rent and homeownership prices rise and many residents may no longer be able to afford to own or rent in ACC. The student population, of course, is not entirely to blame for the shortage of affordable housing in Athens, though its impact is a unique factor of the ACC housing environment.

Why Athens-Clarke County?

In 2002, the Department of Human and Economic Development (HED) in ACC released a comprehensive study on housing concluding that while Athens avoids a housing shortage in terms of true numbers of available units, most of these units were unaffordable to those earning 30 percent or less of the median income for this area (McNeely 2005). This population is increasingly unable to afford to own or rent residences in Athens. Even if residents become homeowners either by purchase or "heir titles" that have been handed down through families, many homes are old, in disrepair, and some even uninhabitable (OneAthens Housing Team 2008). Furthermore, Athens-Clarke County faces a growing need for affordable and good-quality housing that targets a moderate-income demographic. These moderate-income earners can include office clerks, teachers, firemen, police officers, and merchants. The elderly and disabled can also fall into this category (Morgan 2008). Although this demographic may not be what is traditionally associated with affordable housing, these vital citizens are increasingly unable to afford homeownership or even rent in the Athens area. Affordable housing will support these important members of the community who serve by protecting the streets, teaching the children, and generally improving the quality of the community of Athens (McNeely 2005).

Another reason to promote affordable housing lies in the desire to racially and economically integrate a community. With the student population of the University of Georgia comprising 31 percent of Athens residents, one must note its effect on the economic stratification of Athens (McNeely 2005). Many new housing projects in recent years have been apartment complexes targeting students and other largely high-income renting populations. In 2007, eight out of nine apartment building permits authorized complexes that were unaffordable for anyone with an income less than $36,000 a year; in Athens, more than 30,000 jobs pay less than $25,000 a year (ACC Planning Department 2008). This kind of new development leads to households clustered together by economic class, and often race, limiting their housing mobility. This arrangement allows students to dominate areas in close proximity to distressed or poorer neighborhoods without integration. By enacting policies that continue to segregate a community, lower-income individuals are limited in their social, educational, and economic opportunities (Katz 2003).

Previous efforts at affordable housing

To initiate change a local government must first consider the needs of the community, deciding which outcomes and policies are most feasible and important for the community. In Athens-Clarke County, the legislative body, comprised of ten elected commissioners and the Mayor, has the power to vote on and enact policy. In 2002 and 2005, the Mayor and Commission compiled studies to ascertain the most feasible ways to promote affordable housing. In 2005, Mayor Heidi Davison appointed a committee to examine how the use of transferable development rights (TDRs) may promote conservation of green space and affordable housing, among other goals. TDRs refer to the practice of developers buying rights from property owners who will not develop their land (e.g., farmers) in order to develop at a higher density elsewhere. In Athens, the Committee defined possible “sending zones” or places that property rights could be purchased from as any space with woodland, farm land, and other special characteristics like historical or aesthetic value to the city (Kinman 2005). While TDRs do not directly require the building of affordable housing, the ability to develop at high-density levels promotes the kinds of incentives a developer could utilize to devote percentages of new developments to affordable housing. The Committee investigated the effects of TDRs in Athens and concluded that TDRs were indeed a viable option for the city of Athens based on the amount of receiving and sending zones that were identified and the success of other programs across the country (Kinman 2005). Adopting TDR methods in ACC would preserve areas that need not be developed, like historical neighborhoods or green space, while promoting the development of the only kind of residential development ACC lacks: affordable housing. The Mayor and Commission have also assembled a comprehensive plan for the city of Athens outlining future development, including high-density zones. In brief, this high-density zoning encourages the types of development that could include affordable housing.

Aside from the local government, several non-governmental organizations (NGOs) in the area have addressed the issue of affordable housing in Athens. One such group is OneAthens, a successor group to Partners for a Prosperous Athens, dedicated to streamlining the most important initiatives to reduce poverty in the community. After identifying housing as one of ten initiatives to improve quality of life in Athens, the OneAthens housing team compiled a list of strategies in July 2008 that could increase home rental and homeownership in Athens. The strategies include local funding, tax credits, and a comprehensive center for housing, financial, and credit counseling (OneAthens Housing Team 2008). The OneAthens housing team also proposed a local housing fund that will accrue local public and private funding and provide a steady source of monetary support for housing. Furthermore, the group looks at the possibility of using vacant, abandoned, or delinquent properties as the basis for acquiring land for affordable housing ventures.

The Athens Land Trust (ALT) also provides an approach to promoting affordable housing in the Athens area not associated with the local government. The ALT Community Land Trust (CLT) purchases land and then leases it to residents who need affordable housing options. By owning the land and leasing on long lease terms (usually 99 years), the CLT ensures that the land will always be used for the betterment of the community while allowing tenants' families to occupy the land as long as they wish. Tenants can own the buildings on the land;

however, should they choose to sell at a later point, the building must be sold back either to the CLT or to another low-income resident who needs affordable housing (Athens Land Trust 2008). This type of land trust can provide affordable housing for low to moderate-income residents; however, the limited resources of such organizations means that only a small number of homes can be made affordable in this way. Specific to inclusionary zoning, the ALT has asserted its willingness to be a third party manager of an IZ ordinance and supports the idea of instituting such an ordinance in ACC (Benham 2010).

Current Interest

Among the political landscape in ACC there has been considerable interest in the idea of adopting an inclusionary zoning ordinance, but little action taken. Non-governmental organizations in the area have been strong supporters of the idea. The Athens Land Trust's willingness to serve as third-party manager of affordable units provides the cross sector cooperation needed to ensure affordability in the long term. However, there are some in the government who feel the need for affordable units either does not exist or that the economy of ACC will not support new development enough to provide a substantial amount of new affordable units (Lonnee 2010). Other critics are skeptical of the willingness of developers to agree to build under such an ordinance when profit margins in the county are modest at best. Assigning an inclusionary zoning ordinance now, however, ensures that when development picks up, affordable housing will be constructed. Furthermore, concerns over available land being close to the right amenities (bus lines, grocery stores, etc.) for the workforce lead to doubts as to the actual benefit to those the program intends to benefit: moderate-income earners (Lonnee 2010). The local government may also have reservations about administrative costs of implementing the plan. However, with the Athens Land Trust's willingness to work with an IZ ordinance, the county could avoid a large increase in administrative costs. Land scarcity may pose a tangible problem, but the city's comprehensive land use plan details zones where high-density development is still possible and could incorporate affordable housing into the plan.

CHAPTER 3
IMPLICATIONS FOR POLICY MAKERS

The reality of using inclusionary zoning programs is that the versatility of this tool can serve numerous kinds of communities with varying affordable housing needs. Communities interested in implementing an inclusionary zoning ordinance should first identify the need. Although some programs have been beneficial to the low or very-low income groups, most IZ programs will more successfully serve moderate to middle-income earners (California Coalition for Rural Housing; Non-Profit Housing Association of Northern California 2003). The formation of task forces to determine this kind of need have been successful in Chapel Hill and Athens-Clarke County. Common indicators of need are increasing housing prices, only moderately increasing or stagnating household incomes, and increasing employment in an area in certain workforce sectors. In their comprehensive report to ascertain need in Chapel Hill, the local government found that all these factors indicated a need for a very specific type of affordable housing: housing for middle-income earners (Cowan 2009). In a report on the availability of workforce housing across Georgia, the Housing and Demographics Research Center at the University of Georgia found that there is a need across the state for more housing affordable to low and moderate-income earners. Furthermore, the report encouraged local public and private sectors to be the active protagonists in providing housing to their communities. The report also found that lack of workforce housing in Georgia, and especially in the region including Athens-Clarke County, would be a major road block to these regions reaching their full economic potential (Housing and Demographics Research Center 2001). Task forces should utilize statistics and reports of this nature to ascertain the best policy solution for a lack of affordable housing.

Local governments should also be prepared to bring multiple stakeholders to the table during the discussion of employing an inclusionary zoning program. Montgomery County and Chapel Hill programs both sought the input of private developers, community leaders, planning experts, and local government officials before implementing any kind of ordinance. This kind of inclusion can lead to smoother transitions and fewer legal challenges to policies as development occurs (Brunick n.d.). Furthermore, for successful implementation of inclusionary zoning programs municipalities must be prepared to defend against public and political opposition. As mentioned earlier, one chief concern comes in the form of NIMBYism. To mitigate concerns, non-governmental organizations in the community can play an active role in educating neighborhoods about the benefits of mixed-income developments to the whole community. The East Lake Foundation in Atlanta faced opposition from not only local business leaders and politicians, but from the community itself (The East Lake Foundation n.d.). By being persistent and incorporating all members of the community into the dialogue about the new mixed-income Villages at East Lake, the neighborhood has been extremely successful. Furthermore, as with most legislation, the details of IZ programs are most often hammered out among the interested parties (Shuetz 2009). This further supports the notion of communication and cooperation between all stakeholders throughout the process of adopting an IZ ordinance.

Perhaps the most important realization for policy makers looking to adopt IZ programs in their area to have is that these programs can, and should be, amended and improved over the years. Housing markets will change, as will the needs of a community. With this in mind, the monitoring aspect of IZ programs is especially important. Administrators should take care to employ a group to manage the affordability of IZ units, like a CLT, and also adopt benchmarks against which successes and failures can be measured. Close monitoring of outcomes in IZ programs will reveal, with more certainty, how these programs affect housing markets over time (Shuetz 2009). Moreover, this kind of data can lead to best practices and the expected rates of production of affordable units for groups adopting IZ in the future.

CHAPTER 4
CONCLUSION

Inclusionary zoning ordinances are designed to bind market-rate and affordable development in order to produce affordable units for low and moderate-income earners. Over the past 30 years IZ programs have gained popularity across the United States as versatile and sustainable ways to promote affordable housing and integrated communities. IZ programs can be tailored to fit every community's needs and policymakers have the ability to amend these policies to adapt to changes housing markets and necessity. This versatility makes IZ programs an attractive tool for diverse municipalities across the United States. While data on their effect on local housing markets is still scant at best, early analysis reveals no absolute negative effects from IZ programs. Policymakers should monitor programs closely so that future recommendations can be made to municipalities adopting inclusionary zoning ordinances.

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