



April 28, 2019

**Via Email to comment@planning.lacounty.gov.**

RE: COMMENTS ON PROPOSED INCLUSIONARY HOUSING ORDINANCE

Dear Regional Planning Commissioners:

We are pleased to offer the following comments on the County's proposed inclusionary housing ordinance. Our organizations are still in the process of reviewing documents related to this proposed ordinance, however we wanted to offer our initial comments for your consideration as you review this ordinance tomorrow. A strong inclusionary housing ordinance is necessary in ensure that low-income families are not left behind now, or as the economy recovers. During the 5th RHNA cycle, the County's largest shortfall in construction was in units affordable to households at 50% AMI and below.<sup>1</sup> To address this dire shortfall, and help build stable and inclusive communities, we strongly support approval of an inclusionary housing ordinance.

- 1) The County should adopt a robust inclusionary housing ordinance as soon as possible. This important legislation should not be delayed.

It is critical that the County adopt an inclusionary housing ordinance that produces the maximum amount of affordable housing feasible, targets affordable units as deeply as possible, prevents displacement, and better integrates neighborhoods. We urge the Commission to approve a robust inclusionary housing ordinance without delay. The COVID-19 pandemic has created tremendous hardships and recovery will not be felt equally amongst the County's residents. As we continue to work to contain the virus, we must also set the groundwork for an equitable recovery. A comprehensive inclusionary housing ordinance that applies to all 5 supervisorial districts will be a key part of such a recovery.

- 2) The inclusionary policy should apply in *all* geographic areas.

The draft ordinance exempts rental projects in the East LA, South LA, and Antelope Valley submarket areas. Residents of these neighborhoods desperately need affordable housing and are concerned about indirect displacement from exclusively market-rate

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<sup>1</sup> HCD Annual Progress Report Permit Summary available at [https://www.hcd.ca.gov/community-development/housing-element/docs/Annual\\_Progress\\_Report\\_Permit\\_Summary.xlsx](https://www.hcd.ca.gov/community-development/housing-element/docs/Annual_Progress_Report_Permit_Summary.xlsx).

developments. The feasibility analysis by HR&A Advisors noted that rents in the East LA/Gateway submarket grew by 15-20 percent in the last two years.<sup>2</sup> Market conditions are changing rapidly and it's important to establish inclusionary requirements now to plan for future demand.

The HR&A may also have underestimated the feasible rates of affordable housing in these areas. For example, it appears that the analysis did not account for *any* reduction in land costs from an inclusionary housing policy. Economic theory suggests that an inclusionary policy will modestly reduce land prices, making additional affordable housing feasible. By apparently neglecting to account for reduced land prices, HR&A may have skewed their results against a finding of feasibility in these submarkets. Furthermore, even without accounting for reduced land costs, the HR&A pro forma for East Los Angeles shows *greater* profits from the inclusionary pro forma using a density bonus compared with the base non-inclusionary pro forma.<sup>3</sup>

We urge the Commission to recommend approval of an inclusionary housing ordinance that applies to all geographic areas without exception.

- 3) The “middle income” affordability level for for-sale projects will, by definition, not be affordable to most county residents.

The draft ordinance defines a new “middle income” affordability level at 150% of the area median income. Units at this income level will, by definition, be unaffordable to most County residents and will not help the County meet its affordable RHNA numbers. The affordability levels for for-sale projects should be adjusted to require housing that is truly affordable to lower income households.

In addition, we find that setting a new 150% income level takes away from the Board's intention to meet the housing affordability needs of residents who fall under the 120% AMI threshold. As stated in the February 20, 2018 “Affordable Housing Action Plan Implementation Motion, “the County needs to add 17,116 housing units for households earning less than 120% of Area Median Income.” Setting the affordability level at 150% is therefore inconsistent with the findings of the report that advised the Board to move forward with Inclusionary Zoning as an important strategy to mitigate further displacement in communities experiencing gentrification.

- 4) The affordability requirements for rental projects should target deeper affordability.

The draft ordinance includes an option to provide 20% of units affordable to households at the 80% AMI level. These units will not be affordable to a significant portion of

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<sup>2</sup> HR&A Advisors, April 9, 2020, page 6, available at [http://planning.lacounty.gov/assets/upl/project/iho\\_supplemental-analysis.pdf](http://planning.lacounty.gov/assets/upl/project/iho_supplemental-analysis.pdf)

<sup>3</sup> HR&A Advisors, Appendix B.3.

renters in unincorporated LA County. *Nearly half* of renters in unincorporated LA County make 50% AMI or less.<sup>4</sup> Renters at or below the 30% AMI level are most at risk of displacement and homelessness. To address this more urgent need, all three options to satisfy the affordability requirement for rental housing should include a portion of units affordable to households making 30% AMI.

- 5) The option to satisfy the affordable housing requirement through off-site construction should be significantly restricted.

The draft ordinance includes a permissive off-site alternative that creates loopholes and could undermine the intent of the ordinance. Whenever possible, on-site affordable units should be encouraged and the option for off-site construction should be significantly restricted. For example, the current option to build off-site affordable units in any “highest, high, or moderate resource area” would allow a developer building in a high cost area to build off-site affordable units across the county in a lower cost “moderate resource area.” This undermines the Board of Supervisor’s intention of “disrupting historical patterns of de facto economic segregation and promoting economically inclusive communities” in its Affordable Housing Action Plan Implementation Motion.. Furthermore, the ordinance should include a clear prohibition on using competitive affordable housing subsidies for the construction off-site units or building off-site units on a site where tenants resided in the last 10 years. Lastly, developers using the off-site option should be required to build a greater number of affordable units than required under the on-site option, potentially at a two to one ratio.

- 6) The inclusionary ordinance should cover substantial renovations, even if the renovation does not increase the total number of units.

The draft ordinance does not apply to projects to substantially rehabilitate existing multifamily dwellings unless there is an increase in the total number of dwelling units. We would like to better understand the rationale behind this exemption. Much of the new investment in unincorporated East LA and other parts of the County is being undertaken by renovations. These renovated buildings charge higher rents and are unaffordable to most existing residents. Exempting such projects may create inadvertent loopholes preventing lower income households from benefiting from this ordinance (and likely, exacerbating displacement). Such loopholes should not be countenanced.

- 7) The ordinance should include No Net Loss (NNL) requirements for all projects.

To prevent the loss of units *occupied by or affordable to* lower income households, the ordinance should include a NNL requirement for all new developments in all submarkets. NNL is implemented on a per project basis and requires that new developments replace existing units that are occupied by or affordable to lower income households. NNL is a proven best practice from State density bonus law (CA Government Code 65915).

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<sup>4</sup> According to the Department’s Household Income Certification available [here](#), 46% of unincorporated renter households are very low income or extremely low income.

While we understand that the County is considering a NNL requirement in its affordable housing preservation ordinance, it is nonetheless critical to include it as part of this ordinance to ensure that inclusionary housing does not lead to the displacement of long term lower income residents. While the NNL provisions in density bonus law and SB 330 might apply to some inclusionary housing projects, they will not apply to all, so the County should include a NNL requirement in its inclusionary ordinance. Importantly, SB 330 also has a 5-year sunset.

8) The County should maximize the length of affordable housing covenants.

In order to maximize the life of affordable units created through this ordinance, we recommend that covenants be affordable for *55 years or the life of the project*, whichever is longer.

Thank you for your consideration of our comments.

Sincerely,

Laura Raymond, Director, Alliance for Community Transit – Los Angeles  
Susanne Browne, Senior Attorney, Legal Aid Foundation of Los Angeles  
Pamela Agustin, Lead Community Organizer, Eastside LEADS (Leadership for Equitable & Accountable Development Strategies)