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HOUSING POLICY BRIEF

The Effects of Inclusionary Zoning on Local Housing Markets: Lessons from the San Francisco, Washington DC and Suburban Boston Areas

Inclusionary zoning (IZ) is an affordable housing tool that links the production of affordable housing to the production of market-rate housing. IZ policies either require or encourage new residential developments to make a certain percentage of the housing units affordable to low- or moderate-income residents. In exchange, many IZ programs provide cost offsets to developers, such as density bonuses that allow the developer to build more units than conventional zoning would allow, or fast-track permitting that allows developers to build more quickly.

There is tremendous diversity in the structure and goals of inclusionary zoning programs throughout the country: some IZ programs are voluntary while others are mandatory; they are triggered by different sizes and types of market-rate developments; they target the affordable units to different income levels; they have different rules about whether the affordable units must be located within the market-rate development or may be located off-site; and they impose the affordability restriction for different lengths of time.

Since the first program was established in 1972, the number of jurisdictions that have adopted inclusionary zoning policies has grown steadily, with a significant number of jurisdictions adopting programs in the last decade. While it is difficult to identify an exact number, well over 300 jurisdictions – cities, towns and counties – have an inclusionary zoning ordinance on the books.

Arguments For and Against IZ

Despite, or perhaps because of, the rapid spread of inclusionary zoning across the nation, IZ programs often generate significant controversy. Among supporters, IZ is heralded as an important evolution in affordable housing policy because it requires less direct public subsidy than traditional affordable housing programs, and therefore is considered more fiscally sustainable. Proponents also argue that IZ programs that require affordable and market-rate units to be located in the same development promote economic and racial integration.[1] While proponents recognize that developers may lose money on the affordable units, they believe that developers can recoup lost profits through incentives such as density bonuses.

Critics, on the other hand, argue that IZ programs, particularly mandatory ones, will constrict development of market-rate housing by causing developers to build instead in jurisdictions that don't require developers to sell or rent a portion of the units at below-market levels. By constraining the supply of housing, the argument follows, IZ programs will cause the prices of market-rate housing in the jurisdiction to rise, ultimately reducing rather than increasing affordability. Opponents also argue that it is unfair to place the entire burden of providing affordable units on the developers and purchasers of new market-rate housing units; to the extent the community believes affordable housing is an important good, the whole community ought to pay for it.

What Do We Know About the Impacts of IZ Programs?

In spite of its popularity among housing advocates and policymakers and steady opposition from critics, we know relatively little about the effects of inclusionary zoning policies. At the center of the debate over IZ are two empirical questions. First, have IZ programs had the effect of restricting the supply of market-rate housing and increasing its costs in the jurisdictions adopting IZ? Second, have IZ programs been successful at producing affordable units? Unfortunately, few researchers have tried to answer these questions, and many of the studies that have been completed suffer from significant data and methodological limitations. It is difficult to obtain accurate data on the

Poinsettia Station, Carlsbad, CA, BRIDGE Housing.

[1] Not all IZ programs require the affordable units to be produced on-site; some allow developers to build the affordable units elsewhere in the community, and some allow developers to pay an in-lieu fee that the jurisdiction can use to build affordable housing wherever it chooses.

adoption and characteristics of inclusionary zoning programs across jurisdictions and over time, and to track the number of units produced under these programs.

Recognizing the need for objective, rigorous analysis to help inform the academic and policy debate about IZ, the Center for Housing Policy asked NYU's Furman Center for Real Estate and Urban Policy to conduct an in-depth, longitudinal analysis of the effects of IZ.[2] Our research addresses three primary questions:

1) **What kinds of jurisdictions have adopted IZ?**

2) **How much affordable housing has been produced in different IZ programs, and what factors have influenced production levels?**

3) **What effects has IZ had on the price and production of market-rate housing?**

To answer these questions, we selected three metropolitan areas in which IZ programs are fairly prevalent and well-documented, and for which the data about housing supply and prices are available: the San Francisco area, suburban Boston,[3] and the Washington D.C. region. Due to data constraints, we were not able to completely and definitively answer each of these questions for each of the regions we studied. In particular, the small number of jurisdictions in the D.C. area prevented us from conducting statistical analysis on that region. Despite these challenges, our findings significantly advance the current understanding of the effects of IZ policies and have important implications that advocates, critics, and jurisdictions considering adopting an IZ program should bear in mind.

Variation Among IZ Programs and Regions

The design of inclusionary zoning programs varies tremendously across jurisdictions. This variation reflects a number of key differences among the jurisdictions themselves, including the composition of their population and housing stock and their political goals. For example, some jurisdictions place a higher priority on achieving economic integration through IZ while others are more concerned with maximizing the number of affordable housing units produced. The diversity also reflects differences in the larger regulatory framework in which the jurisdictions work: some states allow jurisdictions a great deal of freedom to enact new forms of land use legislation, while others are more restrictive of local controls.

The IZ programs in our three study areas reflect this diversity. Table A provides an overview of some key elements of the IZ programs in these regions. Please note that these statistics reflect the data we used in our study; more recent data may now be available from each region. Because IZ programs may take some time to have an impact, we were not able to evaluate the impacts of the most recently adopted IZ policies.

Table A illustrates significant differences among the programs in our study areas. IZ programs in the San Francisco area were established earlier, are more likely to be mandatory, and are more broadly applicable to different types and sizes of developments than the programs in suburban Boston.

[2] This policy brief presents a summary of our findings; the entire study can be found at: http://furmancenter.nyu.edu/publications/index.html or http://www.nhc.org/housing/iz.

[3] While the City of Boston has an IZ program, it was not included in the database that forms the basis of our study because Boston has different authority over land use regulations than other jurisdictions in the state.

Table A: Variation Among IZ Programs in Our Three Study Areas

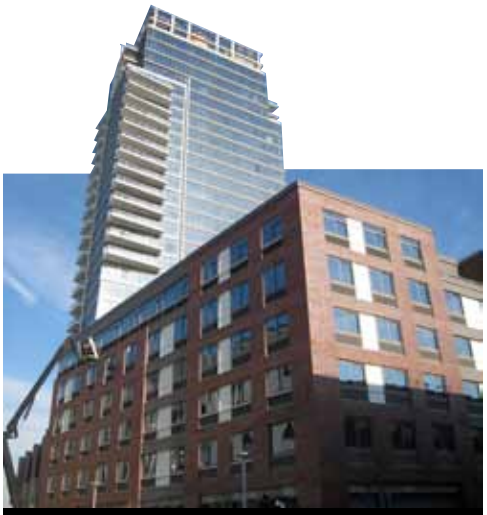
	San Francisco Area (as of 2004)	Suburban Boston (as of 2004)	Washington D.C. Area (as of 2000)
Prevalence of IZ (# of all jurisdictions adopting)	7/10 counties 48/104 cities/towns[4]	99/187 cities/towns	5/23 counties
Year program was adopted:			
Median	1992	2001	1992
Range	1973-2004	1972-2004	1974-1996
% of programs that are mandatory	93%	58%	80%
Breadth of applicability to different types and sizes of developments	Broad	Narrow	Fairly Broad
% of programs providing density bonus	67%	71%	100%
% of programs allowing developers to pay fees in lieu of building units	86%	38%	100%
% of units that must be affordable			
Median	15%	10%	8.13%
Range	5-25%	5-60%	6.25-15%
Incomes targeted for affordable units	Very low to moderate	Low to moderate	Low to moderate
How long units must remain affordable	The median length of affordability is 45 yrs.	One-third of the programs require permanent afford-ability; half don't specify.	For owners, range is from 5-15 years; for renters range is 5-20.

Source: This table combines data from various sources, including: Calavita & Grimes (1998); Brown (2001); CCRH and NPH (2003); Fox & Rose (2003); Vandell (2003), adapted from Rusk (2003); Pioneer Institute for Public Policy and the Rappaport Institute for Greater Boston Local Housing Regulation Database (2004); CCRH Inclusionary Housing Policy Database (2007); NPH (2007); and a supplemental telephone survey of the San Francisco and D.C. areas, conducted by the Furman Center in June, 2007. Because each of these data sources used a different survey methodology and because the content of IZ programs varies greatly, the data across jurisdictions are not always comparable. Our analysis excludes newer programs that have not existed long enough to produce measurable results. Data for the San Francisco region and suburban Boston cover programs enacted through 2004, and data for the Washington D.C. area include programs adopted prior to 2000. See reference list for full citations.

[4] In order to assess the impacts of IZ on housing prices and permits, our study used data on IZ programs in the San Francisco area as of 2004. According to NPH (2007), there are now 77 jurisdictions in the San Francisco area with IZ.

Programs in the San Francisco area also are more likely to allow developers to satisfy requirements by paying in-lieu fees rather than building the units themselves. In Washington D.C., most programs are mandatory, but the requirements are limited only to larger developments, rather than the broader set of developments subject to IZ in the San Francisco area. In the D.C. region, programs require the units to remain affordable for less time than in either of the other study areas. In addition to this variation across regions, there is also significant variation in the structure of IZ programs within each region.

Table A does not reveal the complicated regulatory structure within which each of these regions operate, which may affect the likelihood of adoption of IZ, the form in which IZ takes, and the ultimate impacts of an IZ policy. State or regional regulatory regimes may enhance or impede the formation and success of local IZ programs in a number of ways. For example, California grants local governments broad authority over land use decisions but also has a number of statewide affordable housing policies. Similarly,



Palmer's Dock, Brooklyn, NY, L&M Equity Participants and Dunn Development Corp. Photo: Courtney Wolf.

Massachusetts has a strong tradition of local self-governance, and towns and cities (but not counties) have a tremendous amount of authority over land use decisions. The Massachusetts state law known as Chapter 40B, which requires cities to provide expedited permitting and other benefits to developments that set aside a specified percentage of affordable units, complicates the incentives a jurisdiction has to adopt IZ. Some municipalities may adopt IZ to help them respond to 40B, while others may find 40B to be a sufficient mechanism for producing affordable housing on its own, and accordingly think they do not need an IZ program. Our study was unable to unpack these complicated incentives and constraints, but it is worth noting that state regulations play a significant and somewhat unpredictable role in jurisdictions' decisions to adopt IZ.

Which Jurisdictions Adopt IZ and How Does it Affect Their Housing Markets?

What kinds of jurisdictions adopt IZ?

Our analysis of jurisdictions in the San Francisco area and suburban Boston helps us understand some of the characteristics that predict whether a jurisdiction is likely to adopt an IZ program.[5] We find that larger, more affluent jurisdictions are more likely to adopt IZ. Those near other jurisdictions with IZ also are more likely to adopt IZ. For example, in suburban Boston, we find that the probability of adopting an IZ program increases as the number of other jurisdictions in the same county with IZ

[5] Because of the small number of jurisdictions in the Washington D.C. area with IZ, we were unable to perform a regression analysis for this region. Accordingly, most of the findings summarized in this brief are based only on data from the San Francisco and suburban Boston areas. However, the full report contains detailed information on IZ programs in the Washington D.C. area, as well as findings on IZ production and other observations on the effects of IZ in this area.

increases. This makes sense; if neighboring jurisdictions already have an IZ program in place, it may be less likely that IZ will scare development to other locations. It also may indicate that jurisdictions learn from the experiences of their neighbors, or that there is a "bandwagon" effect for promising or trendy policies. Finally, in suburban Boston, we find that jurisdictions with growth management policies and cluster zoning are more likely to adopt IZ.[6]

Our interviews with program administrators revealed that some jurisdictions adopt IZ programs because of a desire to satisfy state regulations or expectations, rather than out of a desire to adopt a progressive affordable housing policy. These differing motives may impact the amount of housing produced. If the program is adopted solely to satisfy external requirements, it may be written, implemented or enforced in a different way than if it resulted from more local political pressure. Specifically, one might think that communities that adopted IZ merely to satisfy a state mandate may have adopted policies that are less effective or less carefully crafted; additional research would be needed to test this hypothesis.

KEY FINDINGS ON IZ ADOPTION

Jurisdictions are more likely to adopt an IZ program when they:

Are larger and more affluent

■

Have more neighboring jurisdictions that have IZ

■

Have adopted other land use regulations (specifically cluster zoning or growth management)

What influences how much affordable housing has been produced under IZ?

We find that the strongest predictor of how many affordable units a jurisdiction's IZ program has produced is the length of time the program has been in place. This makes sense for a number of reasons: projects that trigger the IZ program are likely to take several years to be completed and generate new IZ units, developers and administrators undoubtedly need some time to become more familiar with the program and work out any kinks, and the production of affordable units through IZ adds up over time.

We also find evidence that programs in the San Francisco region that exempt smaller projects or provide density bonuses tend to produce more units, indicating that more flexible programs may result in greater production.

While nearly all IZ programs in the San Francisco area have produced some affordable units, some 43% of the jurisdictions in suburban Boston with an IZ program on the books have not produced any units, and over one-third are unable to report how many units have been produced. This may indicate that jurisdictions in the Boston area have adopted IZ programs for reasons other than producing affordable housing, such as creat-

[6] Cluster zoning provisions allow developers more flexibility than conventional zoning allows, such as reductions in the minimum lot size or other dimensional requirements, in exchange for setting aside protected open space. Many of the suburban Boston IZ programs are designed as part of cluster zoning, allowing developers to receive increases in the total allowable units in return for producing affordable housing (or some other form of community benefit). The prevalence of IZ programs among jurisdictions with growth management policies, such as annual caps on building permits, may suggest that those communities are concerned both with the pace of residential growth and pressures on housing affordability.

KEY FINDINGS ON IZ PRODUCTION

The longer IZ programs have been in place,
the more affordable units they have produced

■

In the Washington D.C. area, IZ programs have produced
a total of 15,252 affordable units (as of 2003).

▪ *Nearly three-quarters of the units come from Montgomery County which adopted one of the first IZ programs in the country, dating back to 1974.*

■

In suburban Boston:

▪ *As of 2004, 43% of jurisdictions with IZ had not produced any affordable units.*

▪ *Precise counts are not available, but surveys suggest that IZ programs have produced relatively few affordable units, probably in part because so many IZ programs in the area were enacted relatively recently.*

■

In the San Francisco area:

▪ *Almost all jurisdictions report having produced some affordable units.*

▪ *The median annual production across all programs is 9 affordable units/year.*

▪ *For the region as a whole, IZ programs have produced 9,154 affordable units (as of 2004).**

▪ *Programs with density bonuses and exemptions for smaller projects have produced more affordable units.*

* Updated production numbers are available in NPH's 2007 report, *Affordable by Choice: Trends in California Inclusionary Housing Programs* available at: http://www.nonprofithousing.org/.

ing a mechanism to satisfy the requirements of state law 40B. It also may be a function of the fact that IZ programs are a relatively new phenomenon in the region, and these jurisdictions simply have not yet brought their programs to scale. Another explanation for the low production could be that many of the Boston-area programs are voluntary and apply to a narrow range of developments.

What effects have IZ programs had on the price and production of market-rate housing?

The final question we try to answer is the most important, and the most difficult, of the issues surrounding the debate over IZ: how do IZ programs impact housing prices and production? In order to get a better understanding of the underlying issues, it is helpful to consider a simplified theoretical model to predict developers' behavior.

The amount of revenue a developer can gain by selling or renting a unit required to be affordable by a mandatory IZ policy is generally lower than the costs of developing that unit, so unless developers can offset these losses, IZ programs may cause developers to earn lower profits. Economic models predict that developers are likely to react in a number of ways to mandatory IZ programs that do not provide meaningful benefits to offset developers' revenue losses. First, developers may build or invest in other jurisdictions that do not have IZ programs. Second, they may try to make up the lost revenues by raising the prices they charge for market-rate units. Third, they may lower the prices they are willing to pay for land. Their ability to do any of these options will depend on a number of market factors, but under each scenario, the production of housing in the jurisdiction is likely to fall. If the number of new housing units produced in the area falls, and demand and other market factors remain constant, housing prices will likely increase due to the law of supply and demand. The theoretical models predict that the size of the impact on housing production and prices will depend upon many factors, including the extent to which the IZ programs offer cost offsets such as density bonuses, the stringency of the IZ requirements, the dynamics of housing supply and demand, the extent to which other types of supply constraints have been adopted in the community and broader area, and the extent to which neighboring jurisdictions have adopted IZ.

Previous studies have tried to test these theoretical models and gauge the impact of IZ programs on prices and production, but the methodologies and data used in those studies are widely questioned.[7] We use well-accepted regression analysis techniques to isolate the effects of IZ programs on jurisdictions' housing markets. Specifically, we control for variations in the jurisdictions' characteristics that may contribute to changes in housing prices and production, such as population size, density, and demographic composition, including race, age and education levels.

KEY FINDINGS ON IZ'S IMPACT ON PRODUCTION AND PRICES OF MARKET-RATE HOUSING

In the San Francisco area, there is no evidence that IZ impacts either the prices or production of single-family houses.

■

In suburban Boston, IZ seems to have resulted in small decreases in production and slight increases in the prices of single-family houses.

Our analysis finds no evidence that IZ programs have had an impact on either the prices or production rates of market-rate single-family houses in the San Francisco area.[8] In suburban Boston, however, we see some evidence that IZ has constrained production and increased the prices of single-family houses. The number of affordable housing units produced under the suburban Boston IZ programs, and the estimated size of the programs' impact on the supply and

[7] Previous studies include Powell and Stringham (2004a) and Powell and Stringham (2004b); for critiques of those studies, see, e.g., Basolo and Calavita (2004).

[8] We chose to use single-family permits because they make up the overwhelming majority of all housing permits issued in all three areas during the period from 1980 to 2005. In any given year, single-family permits average over 90 percent of total permits, and between 50 and 90 percent of jurisdictions in our sample issued no permits for multifamily housing.

price of housing are both relatively modest. These results reflect the most appropriate analysis of the best available data. Because of limitations in the scope and quality of the available data, however, both the San Francisco and the suburban Boston results should be interpreted with caution.[9]

Given the variation among the programs in the two regions, it is not surprising that our analysis of the two regions produced different results. As we cautioned earlier, IZ is not a one-size-fits-all tool. Not only can the design and scope of a program vary greatly, but its impacts may depend on many variables specific to the jurisdiction. The different results from the San Francisco and suburban Boston analyses are an important reminder that IZ policies come in many shapes and sizes and need to be thought of as a piece of the larger regulatory framework, not a stand-alone solution. The impact of an IZ policy may be affected by the specific design of the IZ program and the effectiveness of its cost offsets, a jurisdiction's reliance on other affordable housing tools, its reasons for adopting IZ, the nature and strength of its housing market, and the state regulatory framework in which it operates.

15 Quincy, Brooklyn, NY, BFC Partners and Pratt Area Community Council. Photo: Courtney Wolf.

What are the Implications for IZ Policies?

The findings from our research suggest a number of points that policymakers should bear in mind as they consider whether to adopt – and if so, how to structure – inclusionary zoning policies:

Each individual ordinance should be considered on its own merits. We found tremendous variation in the details of IZ policies from one jurisdiction to the next. This suggests that IZ is not a single policy but rather an umbrella term for describing many different but related housing policies, each of which may well have different effects on the number of affordable housing units produced and on the price and supply of market-rate homes. In light of this variation, broad generalizations about IZ would seem to be less helpful than case-by-case analysis of particular proposals or ordinances.

Many IZ policies produce affordable units, but IZ is not a panacea for solving a community's housing challenges. The IZ policies that we examined had varied success in producing affordable units. Some have produced very few or no affordable units, while others have produced thousands of units, making a significant contribution to the availability of affordable homes. Even those ordinances that have produced the most affordable housing units, however, have not solved the community's housing challenges. This suggests that communities should think of IZ as one piece of a broader and more comprehensive housing strategy, rather than as a stand-alone policy response.

[9] Please consult the full study for a discussion of the data limitations.

More flexible IZ policies may lead to greater production of affordable units. Our analysis of the IZ programs in the San Francisco metro area found that more flexible IZ policies – those that grant density bonuses or exempt smaller projects – were associated with a greater production of affordable units. The study was not able to determine why policies that provide density bonuses and exempt smaller projects produced more affordable housing units, but one possible explanation is that this flexibility contributed to (or was a manifestation of) a regulatory climate that encouraged new development.

In considering whether to adopt, and if so how to structure, IZ policies, the potential impacts on the price and supply of market-rate housing should be considered. Both our theoretical analysis and our analysis of IZ policies in suburban Boston suggest that in some settings, IZ programs may lead to impacts on the price and supply of market-rate housing that reduce its affordability. While the average size of the price increases and supply decreases of market-rate housing across all jurisdictions in the Boston sample were fairly small, they were nevertheless significant and could be larger in some communities.

On the other hand, we found no evidence that IZ caused an increase in the price or a decrease in the supply of market-rate housing in the San Francisco area, despite the fact that 93 percent of those programs were mandatory. These results suggest that adverse price and supply effects are not inevitable outcomes of IZ. As explained more fully in the next point, it seems likely that the details of the policies – particularly the inclusion of effective cost offsets – matter considerably.

IZ policies that provide meaningful and achievable density bonuses or other benefits to offset the profits lost on affordable units should be less likely to impact adversely the price and supply of market-rate housing. Data limitations prevented us from separately analyzing how different types of IZ ordinances impacted the price and supply of market-rate housing. However, our theoretical analysis suggests that adverse impacts on the price and supply of market-rate homes can be mitigated or even avoided entirely by providing benefits to developers that fully compensate them for losses associated with selling or renting IZ units at below-market prices. The most common compensatory benefit included in the IZ ordinances we studied was an increase in allowable density. Other compensatory benefits include fast-track permitting (which decreases the time and costs of new development) and reduced parking requirements (which reduce the amount of land needed per unit). To the extent that such benefits allow developers to realize the same or similar profit under an IZ policy as might have been achieved without one, we would expect that there would be fewer impacts on the price and supply of market-rate homes.

Different cost offsets may be needed in different communities and in different market cycles. The economics of the development process vary significantly from community to community. They also vary significantly over time, even within a single community. For this reason, it is likely that different communities will need to adopt different offset policies to ensure that IZ policies fully compensate for losses associated with below-market units. These policies also will need to be reviewed over time to ensure they remain meaningful and effective.

Cost offsets need to work in practice, and not just on paper. Practitioners report that in many communities, density bonuses or other offsets that are provided in an IZ ordinance are not in fact realizable because of opposition from community members, planning department staff, and others, or because other policies – such as height caps – prevent developers from building the additional units. To the extent that promised offsets do not materialize in particular communities, developers may become less inclined to build there, or may need to raise the price of housing for market-rate customers.

Broad-based consultations with stakeholders may be helpful in designing effective policies and monitoring their implementation. To ensure that IZ policies are truly effective in offsetting the costs associated with below-market units, it may be helpful to engage a broad range of stakeholders, including both for-profit and nonprofit developers. These stakeholders can help communities develop policies that take into account the realities of construction costs and market dynamics and provide invaluable feedback on how the policies are working once they are implemented. These stakeholders also can help advise jurisdictions on whether there are particular types of housing or particular areas of the community in which IZ policies may not be needed, may be counterproductive, or may need to be more flexible to work effectively.

Related Housing Policies

The following are two housing policies that are closely related to IZ that communities may wish to consider as part of a comprehensive housing strategy;

Reductions in Regulatory Barriers to Development. There are many regulations and other practices at the local level that make it difficult or expensive to develop new housing and do not produce sufficient benefits to justify those extra expenses. Other research suggests that these regulatory barriers are driving up housing prices by constraining the ability of the market to respond effectively to demand. Reducing those barriers can help to expand the supply of housing, moderating home prices, and mitigating concerns that IZ might constrain new development. By increasing the amount of new development, such policies also might increase the number of affordable units produced through an IZ ordinance.*

Shared equity homeownership. Units produced through IZ policies may be affordable when originally produced, but will likely become much less affordable once any affordability restrictions expire. Through community land trusts and other shared equity homeownership strategies, communities can ensure that affordable units produced through IZ stay affordable over time, while still providing residents with an opportunity to build assets.** Similar policies can be applied to retain the affordability of rental units over time, though ongoing operating subsidies may be needed in some cases.

* For more information, see HUD's Regulatory barriers clearinghouse (www.huduser.org/rbc), the Center for Housing Policy's online guide to state and local housing policy (www.housingpolicy.org) and the following publications: Glaeser et. al. (2005) and Schuetz (2007).

**For more information, see the Center for Housing Policy's suite of materials on shared equity homeownership at http://www.nhc.org/housing/sharedequity.

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Fairbanks Ridge, San Diego, CA, Chelsea Investment Corporation. Photo: Lynn Schmid.

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The Center for Housing Policy is the research affiliate of the National Housing Conference (NHC). In partnership with NHC and its members, the Center works to broaden understanding of the Nation's housing challenges and to examine the impact of policies and programs developed to address these needs. Combining research and practical, real-world expertise, the Center helps to develop effective policy solutions at the national, state and local levels that increase the availability of affordable homes. More information on the Center is available at: www.nhc.org/housing/chp-index.