

Builders are right to fear inclusionary zoning legislation: Editorial



For years, state lawmakers and aligned interest groups – affordable housing advocates and the building industry, in this case – have squabbled over a form of housing subsidy known somewhat euphemistically as inclusionary zoning (who could oppose anything that's inclusive?). The building industry has both the better argument and legitimate concerns about fair treatment, which helps explain why the Legislature prohibited inclusionary zoning in 1999. Nonetheless, builders are losing the political battle this year in the Capitol, where Democrats enjoy their strongest legislative majorities in years and one does not say in polite society, "I'm a developer."

Inclusionary zoning refers broadly to regulations requiring new residential

developments to set aside a certain percentage of units as affordable to people with incomes below a certain threshold. In effect, it sets a price on some new homes and condos that is divorced entirely from their actual value.

Such price caps are imposed in the pursuit of a well-intentioned policy goal, which Portland Commissioner Dan Saltzman, who heads the city's housing bureau, explained as follows **during a Feb. 23 legislative hearing**: It is to "stop the situation of people not being able to live close to where they work ... We need to provide communities where people from all walks of life can live together, learn from one another and prosper together ..."

Whether the need to commute to work is truly burdensome is an entirely subjective matter, as many well-off people in the Portland area do so willingly – living in Portland, say, while working in Washington County. But it is true that housing in Portland and other Oregon cities has become increasingly expensive, pushing many people with more modest incomes out of neighborhoods they can no longer afford. This is an unfortunate consequence of success (people want to live here), and policymakers deserve credit for seeking reasonable ways to mitigate it.

The most reasonable approaches are those that assign the costs of subsidizing affordable housing fairly, and those are available already to local officials. Saltzman mentioned some of these in February, and they include the use of public resources, including federal funds, and other incentives like fee-waivers to encourage developers to build low-cost units. Because the policy goal reflects a generally held public desire, and because the upward pressure on housing comes from many places – including Oregon's highly prescriptive land use system, which constrains the supply of buildable property – it is reasonable to spread the cost of pursuing that policy goal as broadly as possible. If everyone wants something, everyone should be willing to pay for it.

Editorials reflect the collective opinion of The Oregonian editorial board, which operates independently of the newsroom.

If you have questions about the opinion section, contact Erik Lukens, editorial and commentary editor, at elukens@oregonian.com or 503-221-8142.

What is not reasonable is singling out a politically unpopular group that has no unique responsibility for the underlying problem and saddling its members with a disproportionate share of the burden of fixing it. That's exactly what inclusionary zoning, at its worst, does. The prescribed percentage of homes in a new neighborhood that must be affordable to lower-income buyers is subsidized. Without compensation, that subsidy will be paid by those with a stake in that project, who include not only land owners and developers, but also the buyers of the market rate housing. The policy, in effect, would increase costs for those who would not qualify for the subsidized housing. However, neither developers nor buyers of market rate homes are more responsible for high housing prices than people who live in existing neighborhoods. They're simply convenient patsies and for that reason face abuse by local policymakers who want their money and know that few constituents are going to stick up for "greedy developers," newcomers from California or anybody who lives in a house or condo that sits on what used to be a favorite open space. Even if it always belonged to somebody else.

Because such abuse is always a possibility – **see Portland's proposed parks SDCs** – the Legislature ought to leave well enough alone. The existing methods of paying for and incentivizing affordable housing involve more work and uncertainty than adopting inclusionary zoning. But this does not make them defective or inclusionary zoning appropriate.

If the Legislature does allow local governments to adopt inclusionary zoning, it should ensure that affected developers are compensated fairly for the subsidies applied to the affordable units in affected projects. This would allow local officials to use new development as a mechanism for increasing the supply of affordable housing without also using it inappropriately as a piggy bank.

As introduced, **House Bill 2564** would merely have zapped the prohibition on exclusionary zoning. An amended version, which cleared the House largely along party lines, limits below-market mandates to 30 percent of new units. It also requires governments to offer at least one of a number of possible incentives to developers,

though it does nothing to ensure that such incentives are even remotely proportionate to the subsidies extracted from developers. This is nothing more than a fig leaf, just as the set-aside limit – 30 percent! – borders on the punitive.

If lawmakers are serious about allowing inclusionary zoning and treating developers and buyers of new homes fairly, they'll have to do better than this.