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Inclusionary zoning and the affordable housing mandate

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Inclusionary zoning has not been a success in Rhode Island for developers or communities trying to meet the state's affordable-housing mandate.

That seems to be the consensus not only among developers and economists, as we saw in the article and interview in the September Rhode Island Builder Report, but among municipal planners as well.

"We haven't made any appreciable progress toward our affordable-housing goal because of inclusionary zoning," said East Greenwich planning director Lisa Bourbonnais. "It's a unit or two. It isn't doing anything about our percentage."

East Greenwich's "affordable" housing stock is currently at 4.5%, she said. Rhode Island's Comprehensive Housing Production and Rehabilitation Act, which sets the 10% mandate, has been in place since 2004.

"Inclusionary zoning is a tough issue," said Bourbonnais. "In a better economy, it might have helped us."

She agreed with every other local planner contacted by this magazine: Developers much prefer the comprehensive permitting process to inclusionary zoning because it allows them to build affordable units where they, not the town, want to build them, increasing the chance of a profit.

Comprehensive (sometimes called expedited) permitting can fast-track approval when a subdivision application includes affordable units. Applications are handled through the state Housing Resources Commission.

"We've had a lot more luck with comprehensive permitting," Bourbonnais said. "We've had a couple of good comprehensive-permit applications. One was approved and built, one has master-plan approval and will probably yield a dozen affordable units for us as part of a larger development. Comprehensive permitting yields bigger numbers, and they're more marketable."

These developments provide a better income mix and are more palatable to the buyer, according to Bourbonnais.

Denise Stetson took up her post as Richmond's town planner in fall 2006 and has not had a new major subdivision proposed since then. The town adopted its inclusionary zoning rules in 2008.

"I understand the principle behind inclusionary zoning, but I don't think it necessarily creates units where they should be. Especially in a rural community like Richmond, with long driving distances, many private roads, and no public transportation to speak of, I question whether developments would even be appropriate for low- or moderate-income people," said Stetson.

She said she would much rather have the state allow municipalities to set a "fee-in-lieu" as an alternative to affordable units under inclusionary zoning.

"In general, though, I think the comprehensive permits are a much better avenue all-around. As a matter of fact, we do have comprehensive permits approved (from 2006 or before), but these

haven't been built yet. So we should have 40 or 50 units in the pipeline, but they don't count yet." Hopkinton has yet to apply its inclusionary zoning ordinance, which was adopted in September 2010.

"We haven't exactly had an abundance of subdivision activity in town, meaning six lots or more," said town planner James Lamphere. "But those that have come through have used comprehensive permitting, and that trumps inclusionary zoning. That seems to be the option of choice for builders." Those wanting to build subdivisions in Hopkinton, and doing so under comprehensive permitting, are asking for much higher density bonuses than would be allowed under inclusionary zoning, according to Lamphere.

"So why would a builder want to monkey around with inclusionary zoning?" he asked.

Chris Hannifan, executive director of the Housing Network of Rhode Island, blamed the economy, at least partially, for the ineffectiveness of inclusionary zoning.

"When inclusionary zoning was brought in, I think many communities were trying to do the right thing. They brought in these ordinances in the mid-2000s, when the market was booming. It was a way for affordable units to get built," said Hannifan.

The Housing Network of Rhode Island, a member of the Rhode Island Builders Association, is made up of 20 non-profit development companies, including the Blackstone Valley Community Action Program, CommunityWorks RI, and the two Rhode Island chapters of Habitat for Humanity.

"Since the market slowed, there hasn't been a great deal of building at all in Rhode Island. I will say that I have had a few more calls this year from for-profit developers who are starting to build again," Hannifan said.

She doesn't feel, as many builders do, that inclusionary zoning projects appeal more to non-profit developers.

"The non-profits are going to build affordable housing anyway. That's their mission."

Regarding for-profit developers who report having trouble selling affordable units built under inclusionary zoning, Hannifan feels that the economy is the primary culprit.

"In many communities, (the rent or cost of) units can go to 120% of median income. That's difficult for selling," she said. "Because of the housing market in Rhode Island, the prices for those affordable units aren't that far away from market-rate units. So why would someone who could afford a market-rate unit buy an affordable unit that has the (30-year) restriction on it?"

To find out more about inclusionary zoning in Rhode Island, visit [www.planning.ri.gov/documents/comp/Handbook on Developing Inclusionary Zoning.pdf](http://www.planning.ri.gov/documents/comp/Handbook%20on%20Developing%20Inclusionary%20Zoning.pdf). For more information about comprehensive permitting, visit www.planning.ri.gov/community/policyplanning/expeditedpermit.php.

Paul Eno is the owner and editor-in-chief of New River Press, Woonsocket and is the editor of the monthly RIBA newsletter, The Rhode Island Builder Report.