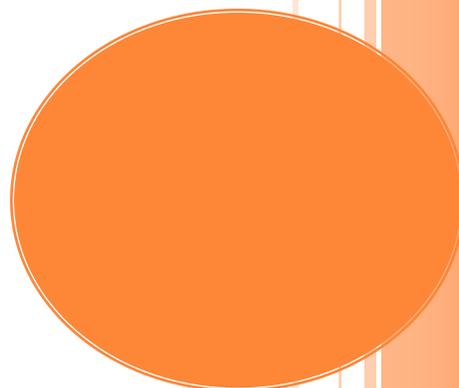


STRATEGY BRIEFS:
LAND USE

November 5, 2015



2. POTENTIAL LAND USE STRATEGIES

	<i>Page</i>
<i>2.1 Facilitating SB 2 Implementation throughout Los Angeles County</i>	<i>2</i>
<i>2.2 Development of Linkage Fee Ordinance</i>	<i>8</i>
<i>2.3 Support Inclusionary Housing for Affordable Rental Units</i>	<i>10</i>
<i>2.4 Increase Development of Second Dwelling Units</i>	<i>14</i>
<i>2.5 Incentive Zoning/Value Capture Strategies</i>	<i>16</i>
<i>2.6 Using Public Land for Homeless Housing</i>	<i>21</i>

Potential Strategy 2.1

Facilitating SB 2 Implementation throughout Los Angeles County

1. Description of the proposed strategy

Senate Bill 2 (SB 2), enacted in 2007, has two clear mandates. These mandates reduce zoning barriers that have historically stood in the way of adequate housing opportunities not just for individuals who are homeless, but also for the elderly, persons with disabilities, veterans, and other target populations. First, SB 2 mandates that each jurisdiction identify at least one zone where emergency shelters are permitted as a matter of right. SB 2 goes on to identify a finite list of objective standards which may be applied to encourage and facilitate the development of emergency shelters. Second, SB 2 mandates that transitional and supportive housing be treated as a residential use of property, subject only to restrictions that apply to other residential dwellings of the same type in the same zone. SB2 was crafted with the objective of making emergency shelters, transitional housing, and supportive housing not only permitted in each jurisdiction, but to ensure realistic potential for development, when there is a willing, private developer with adequate funding .

Eight years after enactment, additional work is needed to ensure compliance with SB 2 across the County's 88 cities. The County could engage in a two-step strategy: (1) review the County's own zoning code for SB 2 compliance; and (2) draft and distribute to its cities model language and guidance for SB 2 implementation.

A. Review of Los Angeles County SB 2 Implementation

i. Zoning Code

Los Angeles County's Zoning Code, which applies in the unincorporated areas of the County, identifies six residential and commercial zones along with all industrial zones where emergency shelters are permitted as of right, that is, without a discretionary process. These zones are mostly urban areas with easy access to public transit and other services. In each of these zones, emergency shelters are subject only to a "director's review," a staff level administrative review that does not require a public hearing. These provisions set a very strong example of zoning policy that meets the mandates of SB 2. The County's Zoning Code could be further strengthened if the following changes were adopted:

Emergency Shelter Definition:

Add "No individual or household may be denied emergency shelter because of an inability to pay" to the homeless shelter definition.

Emergency Shelter Development Standards:

The Zoning Code has outlined development standards in line with those permitted by statute, but could adopt clearer language with regard to proximity restrictions.

The Zoning Code requires, “that there is not an over-concentration of homeless shelters in the surrounding area.” While it is permissible to restrict the proximity of one emergency shelter to another, this particular provision does not set out an objective standard and leaves room for discretionary decision-making. The statute allows jurisdictions to require a separation of up to 300 feet between emergency shelters. While this maximum standard does not have to be used, specification of an objective development standard would eliminate any risk of arbitrary decisions.

Transitional and Supportive Housing:

The Zoning Code does not define “transitional housing” or “supportive housing”, nor does it include any provisions specifically identifying these uses as residential uses. Transitional housing, also known as bridge housing, can provide an important stepping stone to permanent housing. Supportive housing links long-term housing with critical support services. The next section of this Brief includes recommended definitions for both terms. Language could also be added to the Zoning Code to address the following: (1) both transitional and supportive housing “shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone”; and (2) transitional and supportive housing should be listed as permitted uses in each zone where other housing types are permitted uses.

B. SB 2 Suggested Language and Guidance

i. Definitions

Emergency Shelter

"Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. (Cal Health & Safety Code § 50801(e))

Transitional Housing

"Transitional housing" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. (California Government Code § 65582(h))

Supportive Housing

"Supportive housing" means housing: (a) with no limit on length of stay; (b) that is linked to an onsite or offsite service that assists the supportive housing resident in

retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community; and (c) that is occupied by the following (as defined in subdivision (g) of Government Code Section 65582):

(1) Adults with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions and may, among other populations, include adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people; or

(2) Individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code), who include individuals with a disability that originated before the individual was 18 years old, but not including handicapping conditions that are solely physical in nature.

ii. Emergency Shelter Development Standards

SB 2 permits jurisdictions to apply only those development and management standards that apply to residential or commercial development when drafting standards for emergency shelter development. The statute also permits the following eight objective standards:

1. The maximum number of beds or persons permitted to be served nightly by the facility.
2. Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.
3. The size and location of exterior and interior onsite waiting and client intake areas.
4. The provision of onsite management.
5. The proximity to other emergency shelters provided that emergency shelters are not required to be more than 300 feet apart.
6. The length of stay.
7. Lighting.
8. Security during hours that the emergency shelter is in operation.

If a jurisdiction chooses to apply any of these additional eight standards, they must be written to encourage and facilitate emergency shelter development. Standards that render emergency shelters infeasible violate the statute. When setting standards, jurisdictions must focus on the use as an emergency shelter, not the perceived characteristics of potential occupants.

Several trends have emerged as jurisdictions attempt to address SB 2. First, it is common for jurisdictions to set very low bed limitations. If a jurisdiction chooses to limit the number of beds or persons served in a single shelter, then the jurisdiction should consider factors such as the size of its homeless population, rules for potential

shelter funding sources, and proximity restrictions. For example, a low bed limit coupled with the maximum proximity restriction available may make it impossible to build enough shelters to address the needs of the homeless population within the jurisdiction's borders.

Some jurisdictions attempt to restrict shelter proximity to other uses such as schools and parks. This type of restriction exceeds the authority permitted within the statute. Proximity restrictions may apply only to other emergency shelters.

Other jurisdictions write zoning ordinances requiring shelters to provide certain amenities such as laundry service or cooking facilities. Because the statute does not permit jurisdictions to set such requirements, amenities cannot be mandated for site approval, but the jurisdiction may include a list of suggested optional amenities. By including an optional list, the jurisdiction can set out amenities it believes shelters should have without barring shelter developers who cannot provide every amenity on the list.

iii. Choosing a Zone Where Emergency Shelters Are Permitted as of Right

Identifying at least one zone where emergency shelters will be permitted as of right requires individual analysis of each jurisdiction. Therefore, rather than identify a single type of zone, this guidance provides general suggestions for identifying appropriate zones.

First, it should be noted that each jurisdiction must identify at least one zone or overlay district where emergency shelters will be permitted without discretionary action. Generally, this means only administrative approval is required. Requiring conditional use permits, variances, etc. in the chosen zone or zones would violate the statute. The Los Angeles County zoning code identifies multiple residential, commercial, and industrial zones where emergency shelters are permitted as of right. While identifying this many zones may not be practical in all jurisdictions, identifying multiple zones makes the zoning provision more likely to pass the feasibility test.

Any zone or zones chosen must be ones in which emergency shelter development is actually feasible. This translates into several guiding factors. First, the zone must have capacity for shelter development to meet the jurisdiction's needs identified in its Housing Element analysis. At the very least, the zone(s) must be able to accommodate at least one year-round emergency shelter. Choosing a larger zone or multiple zones increases the likelihood of buildings or lots becoming available for conversion to or development of emergency shelters.

Suitability is also a significant factor. Jurisdictions should consider surrounding uses. The California Department of Housing and Community Development (HCD) has specifically advised that industrial zones with heavy manufacturing tend to be unsuitable for emergency shelters because of harmful environmental conditions. Ultimately, it is important to remember that emergency shelters act as residences, albeit temporary, for individuals and families who are homeless. Like any other

residential use, emergency shelters require zones where day-to-day living is appropriate. It is recommended that zones provide easy access to important services such as public transit, social services etc. This may be in a commercial zone that allows residential uses.

iv. Treating Transitional Housing and Supportive Housing as Residential Uses

Jurisdictions must explicitly address both transitional housing and supportive housing. The statutory definitions are provided above. The required development standards differ from SB 2 requirements for emergency shelters. Rather than identifying a particular zone, zoning codes must make clear that each use “shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.” This means that if a developer chooses to convert a duplex, for example, into transitional or supportive housing, then that project is subject only to development standards applied to any other duplex within that zone. Likewise, if a developer chooses to build a multi-family apartment building, then standards for multi-family apartment buildings in that zone will apply.

2. Opportunities that make this proposed strategy feasible (Is this currently done elsewhere? Is there legislation that makes this possible?)

SB 2 is a state mandate requiring all counties and cities to remove certain zoning barriers to emergency shelter, transitional housing, and supportive housing development. Many jurisdictions across the state have enacted zoning ordinances to address the mandate since its enactment, but many have not. Eligibility for many government funding programs depends on compliance with housing element law, of which SB 2 is a part. Enacting an SB 2 compliant zoning ordinance will help cities across the County maintain eligibility for critical community development funding. Moreover, an SB 2 compliant zoning code helps cities shield themselves from costly litigation.

3. Barriers to implementing the proposed strategy and recommendation on how they can be resolved

A. Addressing Negative Attitudes

SB 2 was designed to remove discretionary processes that act as an obstacle to development of shelters and housing for homeless populations. As jurisdictions work toward SB 2 compliance, government officials may face negative feedback from constituents expressing concerns about encouraging these uses. In order to address these concerns, officials may focus on the absolute minimum requirements of SB 2, often losing sight of the spirit of the statute. Ordinances identify zones without realistic capacity for emergency shelter development and emphasize that this type of development must not interfere with neighboring uses. The County could provide guidance to educate the public and city officials about the principles at the heart of SB 2. The guidance could emphasize that SB 2 is a critical element of a comprehensive

strategy to house individuals and families who are homeless in LA County. It could further highlight that SB 2 requires all jurisdictions to update zoning ordinances so that the task of housing the homeless does not fall on any single city or region alone. In guidance on the statute from HCD, the department emphasizes that development standards must address only the development's use, not the perceived characteristics of potential occupants. By emphasizing these points in its zoning code and SB 2 guidance, the County could help dismantle negative attitudes toward emergency shelter, transitional housing, and supportive housing development.

B. Capacity

Some cities may lack the resources to adequately and comprehensively address the mandates of SB 2. With no state funding to implement the mandates and the pressing demands of the day-to-day operations of a city, conducting studies and drafting a compliant zoning ordinance may be an overwhelming task, especially in smaller cities with limited budgets and staff. This strategy will provide cities with an updated resource to lessen the burden of compliance. When the County publishes the guidance, it should also reach out directly to cities encouraging them to use the guidance to review their zoning code and make necessary updates.

4. Potential performance measures

The immediate outcome is that after eight years, SB 2 will come back into the spotlight with County encouragement and support for compliance. The County's guidance will provide cities with a comprehensive template for zoning code compliance. As more cities pass compliant ordinances, developers of emergency shelter, transitional housing, and supportive housing will face fewer procedural barriers, reducing the costs of development. With more cities in compliance, developers will also have a larger selection of locations for development. There are many factors that dictate opportunities for this type of development, but SB 2 compliance eliminates a significant obstacle by removing discretionary procedures that can block projects.

Potential Strategy 2.2 Development of Linkage Fee Ordinance

1. Description of the proposed strategy

Adopt an Affordable Housing Benefit Fee program (alternatively referred to as a housing impact fee or linkage fee program) in cities and in the unincorporated area of the County. The proposed program (supported in Los Angeles City by the 2011 Housing Benefit Fee Study) would charge a one-time fee on all new development. A portion of the jobs created by new property developments are low paying; as a result, some of the workers are unable to afford the market rate rent, creating a demand for affordable housing. The fee would assist each city and the County (in the unincorporated area) with a percentage of the cost related to building and providing below market-rate housing to house the employees whose jobs are tied to new developments.

2. Opportunities that make this proposed strategy feasible (Is this currently done elsewhere? Is there legislation that makes this possible?)

With the dissolution of redevelopment in California, the severe cuts to federal housing funds and the prohibition on inclusionary rental housing policies, many cities are creating their own local solutions through linkage fee programs. In 2014, fifteen jurisdictions in San Mateo County engaged in a Multi-City Affordable Housing Nexus and Impact Fee Feasibility Study for Commercial and Residential Development. Meanwhile, in 2014, San Jose and Daly City implemented a linkage fee program for the first time, starting with fees as high as \$17 per square foot in San Jose and \$25 per square foot in Daly City. Mountain View adopted the fee program in 2013 and last year increased the fee amount for new apartment projects from \$10.26 per square foot to \$17 per square foot; the city reports no decline in interest among rental housing developers to build since the impact fee was enacted.

A nexus study is necessary for a City (or a county in the unincorporated area) wishing to adopt a linkage fee for affordable housing. For example, Los Angeles City's Affordable Housing Benefit Fee study was completed in 2011 and accomplishes the following:

- a) It documents the nexus between new development and the need for more affordable housing;
- b) It quantifies the maximum fees that can legally be charged for commercial and residential development; and
- c) It makes recommendations about the appropriate fee levels with a goal of not adversely impacting potential new development.

The study addresses the California Mitigation Fee Act (Gov. Code sections 66000 et seq) requirement that a fee be “roughly proportional” in nature and relate to the impact of the proposed development.

3. Barriers to implementing the proposed strategy and recommendation on how they can be resolved

- Potential strong industry-specific opposition
- Public perception that the fee program is a tax on jobs; slogans such as *Linkage Fee (aka Jobs Tax)* are promoted through media outlets
- Public perception that fees significantly raise the cost of development, and therefore will have a chilling effect on new development with accompanying negative impacts on the local economy
- Potential competing proposals for development impact fees for other public purposes (e.g., parks, transportation improvements, and infrastructure)

Recommendations:

An Affordable Housing Benefit Fee program ordinance should remain flexible and adapt to local economic conditions through some of the following key considerations:

- Assess appropriate fee rates for specific types of development.
- Explore potential exemptions for industries that would otherwise bear an unfair burden from the fee program.
- Set thresholds so that fee amounts vary by project size.
- Explore applying fees in high-growth zones, expanding residential areas or near transit.

4. Potential Outcomes

- According to Los Angeles City’s 2011 nexus study, an Affordable Housing Benefit Fee program could raise between \$37 and \$112 million annually for the City of Los Angeles. .
- There is flexibility in the use of linkage fee revenue, which is a permanent local source of funding. A city or county can make policy decisions about housing production and preservation at various income levels, including middle income individuals and families. The funds are not tied to federal or state regulatory requirements. The fee revenue can house people from 0-120%AMI, including homeownership opportunities.
- Affordable housing helps attract and retain workers and business.
- Construction of low-income housing creates new jobs and further stimulates the local economy
- A well-designed and well-run program can create affordable homes without discouraging new development.

Potential Strategy 2.3

Support Inclusionary Housing for Affordable Rental Units

1. Description of the proposed strategy

Los Angeles County (LAC) could support amending or clarifying the interpretation of the Costa-Hawkins Rental Housing Act (Costa-Hawkins Act) to allow an inclusionary housing requirement for new rental housing. Such authority would apply to the County for the unincorporated areas and to each of the 88 cities in the County within its own boundaries.

Land costs are one of the major contributing factors to high housing prices and rents in LAC. The urban unincorporated areas are substantially built out, with little or no vacant land available for development. The shortage of developable land further drives up the demand for and cost of housing construction. Many unincorporated communities in LAC have a concentration of low-income residents, residents with lower educational attainment, poor air quality, and other challenging environmental conditions that negatively impact the health of residents¹.

The LAC Community Development Commission (CDC) sponsors the development of affordable and special needs housing in the unincorporated areas and the 49 cities that participate in the CDC's Urban County Program. Funding for CDC has been drastically reduced in recent years. Redevelopment funds have been eliminated, and state and federal funds have decreased.

Inclusionary housing, also known as inclusionary zoning or mixed-income housing, is a policy tool that requires or encourages private housing developers to include a certain percentage of income-restricted units within new market rate residential developments. The Costa-Hawkins Act, enacted in 1995, provides owners in rent control communities the right to establish initial rental rates when there is a change in occupancy at a dwelling unit and exempts housing constructed after 1995 from local rent controls. California courts have interpreted the Costa-Hawkins Act to mean that inclusionary zoning is prohibited for all newly constructed rental units. Specifically, in *Palmer/Sixth Street Properties v. City of Los Angeles* (175 Cal. App. 4th. 1396 (2009)), the Court of Appeals (Second District) held that the Costa-Hawkins Act preempted local inclusionary housing ordinances for new rental units.

Inclusionary housing is one tool for increasing the supply of affordable housing. Housing costs in LAC are high; many residents cannot afford to purchase homes and therefore rent their housing. A greater supply of affordable rental units is needed as part of long term solutions to the shortage of affordable housing stock.

¹ Senterfitt JW, Long A, Shih M, Teutsch SM. How Social and Economic Factors Affect Health. Social Determinants of Health, Issue No. 1. Los Angeles: Los Angeles County Department of Public Health; Jan 2013.

Without sufficient volume of affordable rental units, residents seeking adequate housing may be vulnerable to housing instability or homelessness. Amending the Costa-Hawkins Act to clarify that inclusionary housing requirements for new rental housing are indeed allowed would assist LAC's efforts to combat homelessness by providing the County with an additional tool to increase the volume of affordable rental units. Furthermore, inclusionary housing could help LAC meet its Regional Housing Needs Assessment goals, which quantify the housing needs in the unincorporated areas. For example, the Los Angeles City Housing and Community Investment Department found that, in the City of Los Angeles, only 36% of needed low-income units and 15% of the needed very low-income units were built in 2011².

2. Opportunities that make this proposed strategy feasible (Is this currently done elsewhere? Is there legislation that makes this possible?)

Prior to the Palmer/Sixth Street Properties case, many cities used inclusionary zoning as a tool to assure affordable housing units for rent and for sale. Since the Palmer case, there have been many attempts to address the ramifications of the decision by cities throughout California; therefore, there is ample opportunity to build off of the statewide momentum.

For example, in 2011, Senate Bill (SB) 184 (Leno) would have clarified that the right of owners of rental housing to set rental rates does not apply to inclusionary zoning in the Costa-Hawkins Act. The bill would have authorized any city or county to adopt inclusionary housing requirements as a condition of development and would have amended Section 65850 of the Government Code (California's Planning and Zoning Law) to clarify that inclusionary housing is a permissible land use power. SB 184, however, did not pass out of committee. In 2013, AB 1229 (Leno), which was very similar to SB 184, was vetoed by Governor Brown, in part to provide the California Supreme Court time to weigh in on inclusionary housing, which it did in June 2015.

The California Supreme Court's decision in June 2015 involved a January 2010 City of San Jose Inclusionary Housing Ordinance requiring that 15% of all new market rate for-sale developments of 20 or more units be price-restricted and transferred to moderate-income purchasers. The California Building Industry Association challenged the legality of the ordinance. In the case of California Building Industry Association v. City of San Jose, the California Supreme Court upheld San Jose's Inclusionary Housing Ordinance. Therefore, as it currently stands, the State Supreme Court has upheld the right of cities and counties to require inclusionary housing as part of for-sale development, but not for rental housing.

Supporting efforts to amend or clarify the Costa-Hawkins Act to allow inclusionary housing for new rental units would likely gain support from cities, counties and metropolitan planning organizations statewide. This policy tool could help implement

² Report of the Los Angeles Chief Legislative Analyst, June 24, 2013, Council File No. 13-0002-S97.

existing state mandates such as those outlined in Regional Transportation Plans/Sustainable Communities Strategies and Regional Housing Needs Assessments.

It is important to note that the County Department of Regional Planning is currently working on several initiatives to increase the amount of affordable housing in the LAC unincorporated area, including an inclusionary housing ordinance which would address for-sale units and affordable housing preservation.

3. Barriers to implementing the proposed strategy and recommendation on how they can be resolved

- Funding would be needed for nexus studies to substantiate the need for an inclusionary housing provision in the unincorporated areas of the County.
- Opposition from landlords who do not wish to be restricted in the rents they can charge. This could be addressed by communicating the benefits of increasing the affordable housing supply in LAC to a variety of stakeholders.
- Opposition from members of the public who do not want affordable housing units in their community. This could be addressed through education and outreach about the benefits of additional housing opportunities and through development standards that address potential visual and traffic impacts.
- Opposition by for-profit housing developers. Developers may prefer not to provide affordable units due to the constraints this might impose on the profitability of a given development project and/or the complexity it would add to financing and regulatory compliance. This could be addressed by including incentives in any County inclusionary housing ordinance similar to those included in the Density Bonus Ordinance, which provide a developer with benefits such as an increased number of market rate units or relaxed development standards.

4. Potential Outcomes

There are several positive potential outcomes if the Costa-Hawkins Act were to be amended or clarified to allow for inclusionary housing for new rental housing, which include:

- Positive fiscal impact to Los Angeles County. As more people can access affordable housing, fewer people should become homeless. Individuals and families in affordable housing would benefit from an increase in income available for medical care, transportation, and food. A reduction in homelessness should lead to overall, long-term fiscal savings for LAC.
- Increase in the number and type of high-quality affordable rental units Countywide. Those with lower incomes are the most likely to live in

unhealthy, overcrowded, or unsafe housing conditions³. About 52% of households in LAC have a high housing burden, meaning they spend more than 30% of their monthly income on housing. In addition, those that reported housing unaffordability also reported significantly more days that their normal activities were limited due to problems with physical or mental health. With an increased supply of affordable units, there should be a decrease in the number of people living in unhealthy, overcrowded, or unsafe conditions. This could reduce the need for LAC to provide services to those in substandard housing, to take enforcement actions against substandard housing owners, to serve the chronically homeless and to address infectious disease related to overcrowded housing.

- Increased racial and income integration Countywide. This strategy is critical as it provides a tool to enhance equity in LAC and address concentrated poverty. Although effects are dependent on siting, in the aggregate, inclusionary housing has been found to be effective in affecting both racial and income integration in communities. To the extent that inclusionary housing policies include long-term affordability requirements, they can foster economic integration and give low-income families extended exposure to settings that promote health. Research shows that a significant amount of time is required - often, generations - for low-income populations to reap the benefits of low-poverty settings^{4,5}.
- Increased educational attainment. Low-density housing increases the likelihood that low-income households are priced out of homes located in neighborhoods with high-scoring schools. It follows that inclusionary housing policies can increase access to high-quality schooling. Educational attainment is a well-established social determinant of health⁶.

If the Costa-Hawkins Act were successfully amended, in addition to establishing an inclusionary housing policy in the unincorporated area, the County could support city efforts to include inclusionary housing requirements on new development for rental units.

³ Housing and Health in Los Angeles County. Social Determinants of Health, Issue No. 2. Los Angeles: Los Angeles County Department of Public Health; Feb 2015.

⁴ Schwartz HL, Ecola L, Leuschner KJ, Kofner A. Is inclusionary zoning inclusionary? A guide for practitioners. Santa Monica: RAND Corporation; 2012: Technical Report 1231.

⁵ Kontokosta, C.E. (2014), Mixed-Income Housing and Neighborhood Integration: Evidence from Inclusionary Zoning Programs. *Journal of Urban Affairs*, 36: 716–741. doi:10.1111/juaf.12068.

⁶ Egarter S, Braveman P, Sadegh-Nobari T, Grossman-Kahn R, Dekker M. Education matters for health. Exploring the social determinants of health: Issue brief no. 6. Princeton (NJ): Robert Wood Johnson Foundation; 2011.

Potential Strategy 2.4 Increase Development of Second Dwelling Units

1. Description of the proposed strategy

The proposed strategy is to revise existing codes and ordinances as well as simplify review and approval processes in the County of Los Angeles and its cities to facilitate the development of second units on single-family lots. In conjunction with this strategy, the County could waive or reduce permitting fees and utility and sewer hookup charges to assist homeowners in constructing second units in exchange for providing long-term affordability covenants or requiring recipients to accept Section 8 vouchers. Additionally, the County could partner with interested lenders to devise an easy-to-access loan program that could use a mix of conventional home improvement loans and CDBG or other housing loan funds to assure affordability.

2. Opportunities that make this proposed strategy feasible (Is this currently done elsewhere? Is there legislation that makes this possible?)

The County of Los Angeles has adopted an ordinance specifically regulating second units, and the City of Los Angeles has existing codes which, taken together, also regulate such uses. The opportunity exists to revise these codes and ordinances to eliminate barriers and further facilitate the development of second units. Similar opportunities exist in cities throughout the County.

In 2003, the California Legislature passed AB 1866, which explicitly encouraged the development of second units on single-family lots. It precluded cities from requiring discretionary actions in approving such projects, and established relatively simple guidelines for approval. Some cities have adopted local ordinances and some cities have taken additional actions to help homeowners build second units. For example, the City of Santa Cruz made second units a centerpiece of its affordable housing strategy by providing pre-reviewed architectural plans, waiving fees for permitting and processing, and providing a free manual with instructions about the development and permitting process. The City also helped arrange financing with a local credit union to qualify homeowners for a period of time. This example shows how the locality removed barriers, and actively encouraged residents to pursue this type of development.

3. Barriers to implementing the proposed strategy and recommendation on how they can be resolved

While the County and individual cities could take action to make it easier for homeowners to develop second units, the actual impact of such action would be dependent upon individual homeowners choosing to add a second unit to their properties. For homeowners, one of the key barriers is securing financing. Since 2004, when the County adopted its Second Unit Ordinance, 719 second units have been

permitted in the unincorporated area. The County's second unit production reached an annual high of 135 in 2007 right before the Great Recession. In 2012, by contrast, only 32 second units were permitted.

In addition, neighbors are frequently opposed to densification of their neighborhoods. However, a study by Vinit Mukhija and UCLA's cityLAB found that second units could be supported by neighborhood groups when appropriate site-specific conditions were incorporated. Significant outreach and education would be necessary to build a coalition of stakeholders supportive of second unit development.

Another important consideration is that second units are a significant strategy for increasing affordable housing supply and combatting homelessness, but are not recommended as a strategy for addressing chronic homelessness due to the intensive nature of resident needs for case management and supportive services. However, a substantial majority of homeless individuals are not chronically homeless and could therefore be good candidates to live in a second dwelling unit. Additionally, an increase in second dwelling units would increase the supply of affordable housing, and thereby also indirectly assist in combatting homelessness.

The County and city Planning Departments can review and revise the regulatory barriers to implementation. In addition to code revisions, providing financing or fee waivers or reductions to homeowners in exchange for an income restriction covenant would provide significant encouragement to homeowners to pursue developing a second unit. These actions would build upon both current market practice and demonstrable demand by making it easier for property owners to build and finance safe second units and to do it well.

4. Potential outcomes

Second units represent an untapped resource of affordable housing that could potentially bring thousands of net new units to the County. Second units can encourage walkability by increasing density when located near transit. Additionally, with a critical mass of sufficient units, infrastructure investments to create "smart streets" and grand boulevards may make sense. Second units are neighborhood sensitive, as they are designed and built by individual homeowners in their own backyards; they have the additional benefit of providing housing for aging parents, affordable housing for older children, and the infusion of additional income that allows families to afford larger mortgages. This is a strategy that could bring many new affordable housing units to the County and has many collateral benefits as well.

Potential Strategy 2.5 Incentive Zoning/Value Capture Strategies

1. Description of the proposed strategy

- Incentive Zoning (IZ)/Value Capture (VC) is the idea that investments such as new transportation infrastructure and planning actions such as a zone change or density bonus can increase land values, generating an unearned profit for private landowners. Value capture strategies seek to redirect some of the increases in land values for public good. Below is a short list of value capture strategies:
 - Public Benefits Zoning
 - Incentive Zoning/Density Bonus
 - Housing Overlay Zoning
 - Tax Increment Financing
 - Community Benefits Agreements
 - Special Assessment Districts
- This strategy brief focuses on housing production and preservation. The recommendations speak primarily to affordable housing which encompasses everything from permanent supportive housing to workforce housing.
- Specifically, this strategy brief includes a list of land use recommendations that focus on the production of new housing through incentives and the preservation of existing housing through enforcement of regulations.
- The current housing crisis is one of the factors contributing to homelessness.
- Specific land use strategies could generate funding to support existing and new affordable housing. Funding could be used for everything from preserving existing Single Room Occupancy (residential) hotels to building new facilities for bridge housing.
- Communities and developers could benefit from this comprehensive strategy and both the County and cities could adopt the policies outlined to increase and preserve affordable housing.
- The County could consider drafting model ordinances to assist cities in developing these land use options.

2. Opportunities that make this proposed strategy feasible (Is this currently done elsewhere? Is there legislation that makes this possible?)

A. PRESERVATION TOOLS:

- Under the City of Los Angeles' Condo Conversion Ordinance, the City will not halt conversions unless vacancy rates are below 5% and the conversion is found to have a cumulative adverse impact on affordable housing.
- Other cities also have Condo Conversion Ordinances which should be reviewed to identify best practices.
- Review the City of LA's Residential Hotel Conversion and Demolition Ordinance. This ordinance was adopted nearly 10 years ago and could be revisited to determine if it is achieving its intended results.
- Tenant protection law, especially in cities under rent control/stabilization, should be enforced. The Systematic Code Enforcement Program (SCEP) in the City of Los Angeles is a good example of a proactive advocacy/education system for both landlords and tenants; however, it should be noted that SCEP can result in tenant displacement if City inspectors find units non-habitable. One response could be to create a policy to more easily legalize unpermitted units where land use/zoning standards (like density/parking) are the only obstacle.
- Consider a slowdown of demolition permit issuance for market-rate projects once the affordable housing index in a neighborhood drops by a measurable and significant amount. The City of Santa Monica may be a model; however, there is debate if this is a legal option under State law, given Costa Hawkins and the Ellis Act.

B. INCENTIVE-BASED TOOLS

- Value Capture (VC) : Projects are subject to VC if they have a specified number of units and receive a discretionary land use action. If the project proposes to demolish existing affordable housing units (RSO or covenant), there could be a requirement that they be replaced on a one-for-one basis and not permitted to be counted towards any applicable affordability requirement. This mirrors the requirements of AB 2222, which are described below. In order for incentive-based tools to succeed, incentives should be attached to the process of receiving a discretionary land use action such as more density or a zone change from non-residential to residential use.
- Some examples of incentives include:
 - Reduced parking requirements
 - Streamlining approval processes
 - Additional density

- Existing examples of Value Capture policies include:
 - Chicago has an Affordable Requirement Ordinance (ARO) similar to VC. Affordable housing is required in new projects of 10 or more units when a zone change is granted that increases the residential floor area ratio above the base zone or allows a residential use not previously allowed.
 - Cornfields Arroyo Seco Specific Plan (CASP) maintains a base density of 1.5 FAR for residential projects and allows developments to obtain up to a 100% density increase to 3.0 FAR by including increasing levels of affordable housing. CASP is also currently the only plan in Los Angeles County that provides incentives for developers to provide housing for Extremely Low Income residents, defined as <30% of Area Median Income.
 - Industrial Land Use Policy (ILUP) calls for inclusion of Community Benefits in conjunction with the approval of residential development and/or zoning and planning processes that allow for residential development on industrial land.
 - The Hub in San Francisco is more than a dozen city blocks at Market Street and Van Ness – one of the City’s most underutilized intersections. Nonetheless, it is a strategic location where tech employers, transit access for Muni and BART, and planned residential buildings come together. City planners are analyzing increasing density 10% - 15% in exchange for doubling the number of affordable units to be built in a planned rezoning. The County and/or cities could follow this example by identifying strategic transit nodes and imposing venture capture strategies that benefit low-income households while encouraging market rate development.
- Things to take into consideration in developing incentive based strategies:
 - **State Density Bonus** offers density incentives for the production of affordable housing units. To obtain the minimum density incentive available under the law, a project must provide at least 10% Low Income units or 5% Very Low Income, with increases in density incentives tied to increasing numbers of affordable housing units. State density bonus law does not provide incentives for moderate income rental units. The law allows for cities to grant a greater density bonus for projects that meet the affordability requirements, but also prohibits a city from offering “a density bonus or any other incentive that would undermine the intent of (the law).”
 - **AB 2222** was an amendment to state density bonus law that requires projects receiving a density bonus to achieve a net gain in affordable housing. To be eligible for a density bonus, projects must replace all affordable units (covenanted affordable, rent controlled, or units occupied by

lower income households). The bill also extended the affordability covenant term to 55 years.

- **AB 744** amended state density bonus law to reduce parking requirements for affordable housing projects near transit. A 100% affordable project that is located within a ½ mile of transit may obtain a parking ratio of no more than 0.5 spaces per unit. Mixed income projects within a ½ mile of transit that include the maximum percentage of low- or very-low income units in the density bonus law may obtain a vehicle parking ratio of no more than 0.5 spaces per bedroom. Projects must also replace all affordable units to qualify for these benefits.
- **Transit Oriented Development Plans:** Projects built within a specified radius of fixed transit could be required to include a percentage of affordable units in exchange for development concessions, such as increased FAR and reduced or eliminated parking requirements.
- **The House LA Initiative** focuses on housing production through streamlining the development process and also includes a recommendation to allow for Micro Unit Housing. The proposal seeks to waive density regulations as long as development is within the building envelope. This type of housing could be a cost effective tool to build new units for homeless individuals.
- **A Density Bonus Ordinance** could include an enhanced density bonus and incentives around transit hubs and expand the eligible area to a 1/2 mile radius of frequent bus service stops, transfer stops and rail stops, in exchange for affordable housing. Provide other incentives, like no parking requirements, no transitional height requirements, and allow additional heights and floor area beyond 35%. There may also be ways to house the formerly homeless in density bonus projects by either providing additional incentives or partnering with agencies that administer housing voucher programs.
- **Implement SB 375, Sustainable Communities Act,** which exempts infill affordable housing projects from CEQA.
- **The City of LA State of Emergency Declaration** could allow the City to build bridge and transitional housing in an expedited manner. Other cities and the County could take similar action.
- **Define Permanent Supportive Housing in Los Angeles City's Zoning Code.** This is being pursued in connection with the City of Los Angeles' comprehensive revision of its zoning code (Re: Code LA) and could potentially accomplish items like removing parking requirements and density regulations.

C. FUNDING TOOLS

- **Community Revitalization and Investment Authorities (CRIA):** Provides new authority to revitalize disadvantaged communities through planning and financing infrastructure improvements and upgrades; and affordable housing via tax increment financing based in part on former community redevelopment law.
- **Enhanced Infrastructure Financing Districts (EIFD):** This new law allows cities to create EIFD's to raise the necessary capital to invest in public works/transit projects, infill development, affordable housing and park space projects.
- **Transfer of Floor Area Rights (TFAR) Program:** Create a program that would allow developers to sell unused air rights to affordable housing developers in targeted areas. Utilize funds generated to create a Housing Trust Fund and invest in purchasing expiring use and RSO properties. These funds could also be used to preserve and renovate residential hotels.

3. **Barriers to implementing the proposed strategy and recommendation on how they can be resolved:**

- There are 88 cities and 137 unincorporated areas in Los Angeles County. Each geography has its own set of existing conditions and quality of life aspirations.
- Need to develop strong and varied coalitions

4. **Performance outcomes**

If jurisdictions were to enact a comprehensive set of Incentive Zoning/ Value Capture policies as outlined above, they could expect to preserve and produce a significant amount of additional affordable housing units. As many of the specifics of such a policy have not been determined, the exact numbers of units are not able to be easily ascertained.

Potential Strategy 2.6 Using Public Land for Homeless Housing

1. Description of the proposed strategy

- The proposed strategy is to make publicly owned real estate available for the development of Affordable Housing.
- In Los Angeles County, there are opportunities for using public land for affordable housing on many different types of sites, including vacant publicly owned land, under-utilized sites, parcels where existing public facilities are no longer needed, and as part of the development of new public facilities such as community centers, libraries, fire stations, and police stations.
- Discounted public land can provide a valuable subsidy to the development of affordable housing.
- Public land development opportunities can facilitate the development of affordable housing in transit-accessible, amenity-rich locations.
- The joint development of public facilities and housing properties can lead to infrastructure cost savings, better design, and more accessible public services.

2. Opportunities that make this proposed strategy feasible (Is this currently done elsewhere? Is there legislation that makes this possible?)

- Various examples of discounted public land are available throughout the country. Some examples of Public Land being used for Affordable Housing in Los Angeles County include:
 - Affordable Housing on Metro Joint Development Sites
 - Affordable Housing on LA Unified School District property in Los Angeles
 - Homeless Housing on surplus DMV site in Hollywood
 - Affordable Housing on land purchased by former redevelopment agencies
 - Housing for Homeless Veterans on Federally-Owned VA Property in Westwood
- Surplus Land - AB 2135 provides affordable housing projects the right of first refusal to obtain surplus land held by local governments, gives project developers more time to negotiate the purchase of the surplus land, and allows the land to be sold for less than fair market value as a developer incentive.
- Various Housing Agencies have the ability to implement Affordable Housing Land Disposition Strategies, and the County and cities can establish authorities

for the purpose of holding and disposing of public land for affordable housing. Housing Authorities currently have authority under state law to acquire, hold, and dispose of land. It is unclear whether the California Redevelopment Law transferred the right to hold and dispose of public land to Housing Successor Agencies; however, recent state legislation was enacted that may make it easier for these tools to be adopted by the County and cities. In some jurisdictions, Joint Powers Authorities or Housing Finance Authorities have been created to acquire, hold and dispose of public land for housing.

3. **Barriers to implementing the proposed strategy and recommendation on how they can be resolved**

- **Barrier #1: Lack of alignment with Affordable Housing Subsidies**

While free or discounted public land can close some of the affordability gap, in many cases additional subsidies and investments will be needed, particularly if the public land is provided in exchange for community benefits beyond affordable housing.

Solution #1: Align the disposition of public land with affordable housing subsidies & cross- subsidy opportunities.

A public land development strategy should be linked to the Affordable Housing Subsidies in the region. In addition the public land development strategy should leverage strong market and development incentives in order to leverage cross subsidies and non-financial incentives that will reduce the overall cost of producing affordable housing.

- **Barrier #2: Decentralized Management of Land Disposition for Affordable Housing**

Without an express mandate or meaningful incentive to do so, County and city agencies that are not focused on housing are unlikely to take a hard look at their property holdings to determine if some could be used to support the development of affordable homes.

Solution #2: Empower one Agency to Manage Land for Affordable Housing

Within a single jurisdiction, or group of smaller jurisdictions, it may make sense to authorize a single agency to be responsible for the development of public land for affordable housing. Such an agency could conduct regular, cross-agency assessment of publicly owned affordable housing land development opportunities and could be authorized to own, hold, prepare, and dispose of public land for affordable housing.

- **Barrier #3: Costs & Risks of land development**

Even though the price of public land can be reduced for public purposes such as housing, not all public land is suitable for housing development. Some barriers to development include inadequate zoning, non-contiguous parcels, lack of infrastructure, and soil contamination.

Solution #3: Invest Public Resources in preparing public sites for development

Investing public funds in pre development —such as clearance and decontamination of a site, infrastructure provision, or advance completion of area land-use planning and entitlements—can reduce the risks and the cost of developing affordable housing on public land.

- **Barrier #4: Lack of a coherent public policy on the use of Public Land for Affordable Housing**

Solution #4: Develop strong local public policy with significant community engagement

The strongest local public land policies are developed with significant community engagement and are crafted with an understanding of affordable housing needs, development costs, and neighborhood-level market dynamics. Such a policy would include:

- A policy to identify and protect publicly owned sites that are good for affordable housing
- A clearly articulated policy for affordability levels on public land
- A policy to engage communities in the development process
- A policy to link publicly owned land to other housing subsidies
- A policy to reduce the cost of development through investment in public land set aside for housing
- A policy to minimize conflicts of interest by empowering one agency with the responsibility to develop affordable housing on public land.

4. Potential outcomes**Repurposing public land and obsolete public buildings**

Free real estate, in conjunction with zoning incentives, and financial subsidies can become powerful tools to enhance local government's ability to reduce the cost of developing affordable housing. But to be useful, publicly owned sites must be suitable for affordable housing, clear of legal encumbrances, free of environmental contamination, and adequately sized and shaped so that multifamily housing can support a sufficient number of housing units to be managed and operated efficiently.

Joint Development with New Public Facilities

In addition to development on surplus property, affordable housing can be linked to the development of new public facilities such as libraries, fire stations, community centers, police stations, and parking garages. When doing this, however, it is important that the public agency coordinate with the housing developer at the beginning of the process. This can ensure that the benefits outweigh the costs of coordinating the development of shared infrastructure, and that architects and contractors for both the residential property and public facility are not working at cross purposes.