

Zoning for Affordability Compliance Alternatives

June 28, 2023



COMMUNITY
PLANNING
COLLABORATIVE



Association of
Bay Area Governments



METROPOLITAN
TRANSPORTATION
COMMISSION



Image: Sitaline Institute

Agenda

Goal: To review the range of alternative compliance options and understand when they make sense.

- Introductions
- Overview of Compliance Alternatives
- Understanding Economic Integration
- Exercise
- Setting the In Lieu Fee
- Discussion
- Closing

Please introduce yourself by typing your name and jurisdiction into the chat

Working Group Series

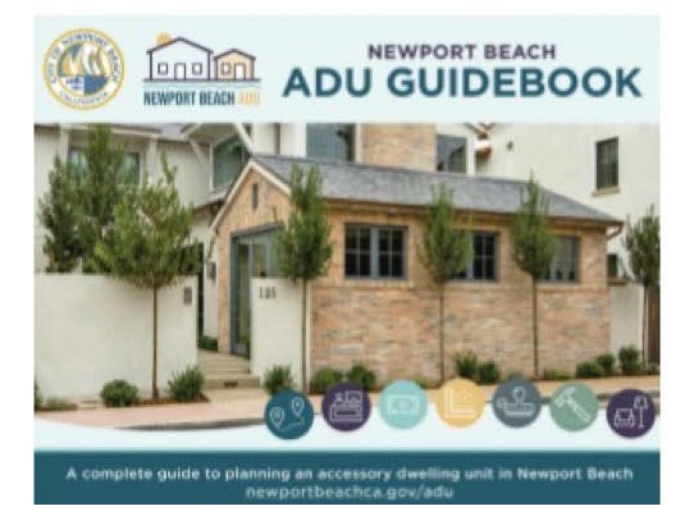
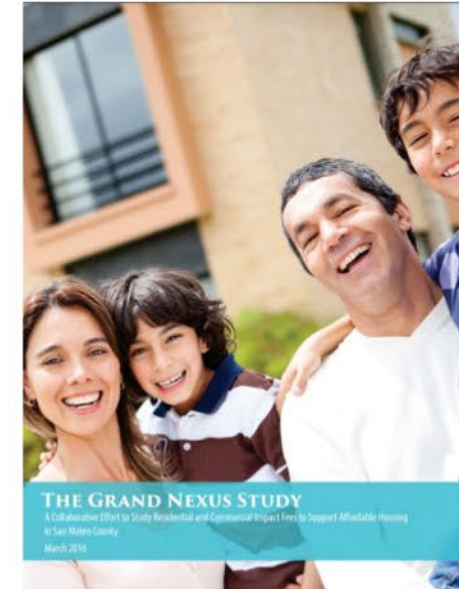


Joshua Abrams

COMMUNITY PLANNING COLLABORATIVE

RECENT CLIENTS

- San Francisco
- San Jose
- San Mateo County
- State of California
- ABAG
- Salt Lake City
- Chan Zuckerberg Initiative
- San Francisco Foundation
- Irvine Foundation



Accessory Dwelling Unit Calculator

Estimate the cost of converting part of your home or constructing a rental unit.

Save/Load My Settings English

Structure | Construction | Finances | Rents | **Costs** | Value | Projections

Physical Characteristics

Where will your second unit be built?
Sonoma

Type of Construction

- New Construction
New construction includes both attached and detached second units.
- Conversion of Part of Garage or Pool House
Taking an existing garage or pool house, and turning it into a second unit.

Monthly Rent: **\$2,034**

Monthly Expenses: **\$1,701**

- \$1,210 Loan Payment
- \$154 Taxes
- \$128 Insurance
- \$11 Management
- \$16 Vacancy Allowance
- \$19 Repairs

Napa Sonoma ADU ADU PLANS GALLERY

HOME PAGE | PLANS SEARCH | FAQS | **NAPA SONOMA ADU CENTER WEBSITE**

Welcome to the Napa Sonoma ADU Standard Plans Program

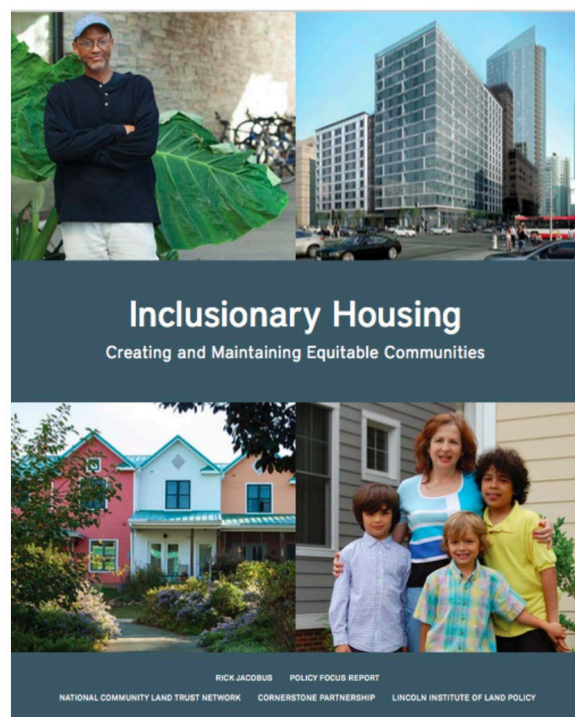
- ✓ Find an ADU design you like that works for your property.
- ✓ Connect with the designer, architect, or prefab company.
- ✓ Save time and money!

Affordable Housing Policy | ADU | Facilitation | Sustainability



Rick Jacobus

Street Level Advisors



Recent Clients:

San Francisco
San Jose
Berkeley
Honolulu
Seattle
New York
Atlanta
Minneapolis
Los Angeles County

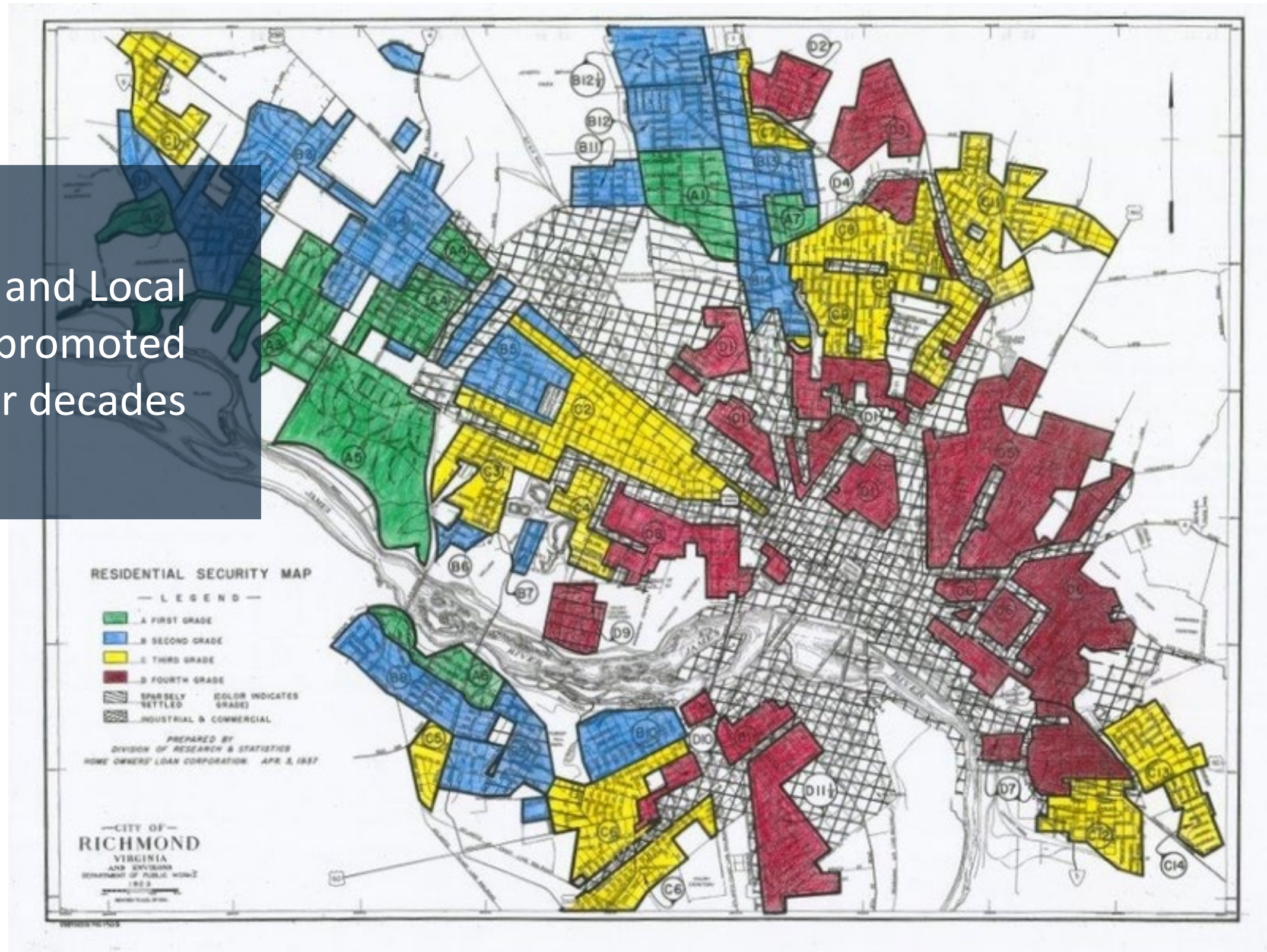
Lincoln Institute for Land Policy
Grounded Solutions Network
PolicyLink
The Ford Foundation
F. B. Heron Foundation



Economic Integration



Federal, State and Local governments actively promoted racial segregation for decades



Fair Housing



We eventually banned racial **discrimination** in housing

But communities continued to use zoning as a tool to maintain racial and economic **exclusion**




Exclusionary Zoning



Differences in poverty rate in the **neighborhood** where kids grow up make a bigger difference to their economic future than differences in **parents** income.

SHARKEY, PATRICK. 2009. "Neighborhoods and the Black-White Mobility Gap." Economic Mobility Project: An Initiative of the Pew Charitable Trust.

A photograph capturing a large public gathering, likely a festival or community event. In the foreground, the dark silhouettes of two individuals are prominent, one appearing to be a child and the other an adult, both looking towards the crowd. The background is filled with a dense crowd of people, some of whom are also silhouetted against the bright, hazy sky. In the distance, a city skyline is visible, including a prominent suspension bridge. The overall atmosphere is one of a vibrant, community-oriented event.

Moving to an economically integrated community improves the life chances for lower income kids - The earlier they move the greater the benefit.

The Equality of Opportunity Project (Chetty and Hendren, 2015)

Our affordable housing programs have not been successful in accessing higher opportunity neighborhoods.





Median quality of nearest school

Public Housing

19th Percentile

Tax Credits

30th Percentile

Housing Choice
Voucher Holders

26th Percentile



Median quality of nearest school

Public Housing

19th Percentile

Tax Credits

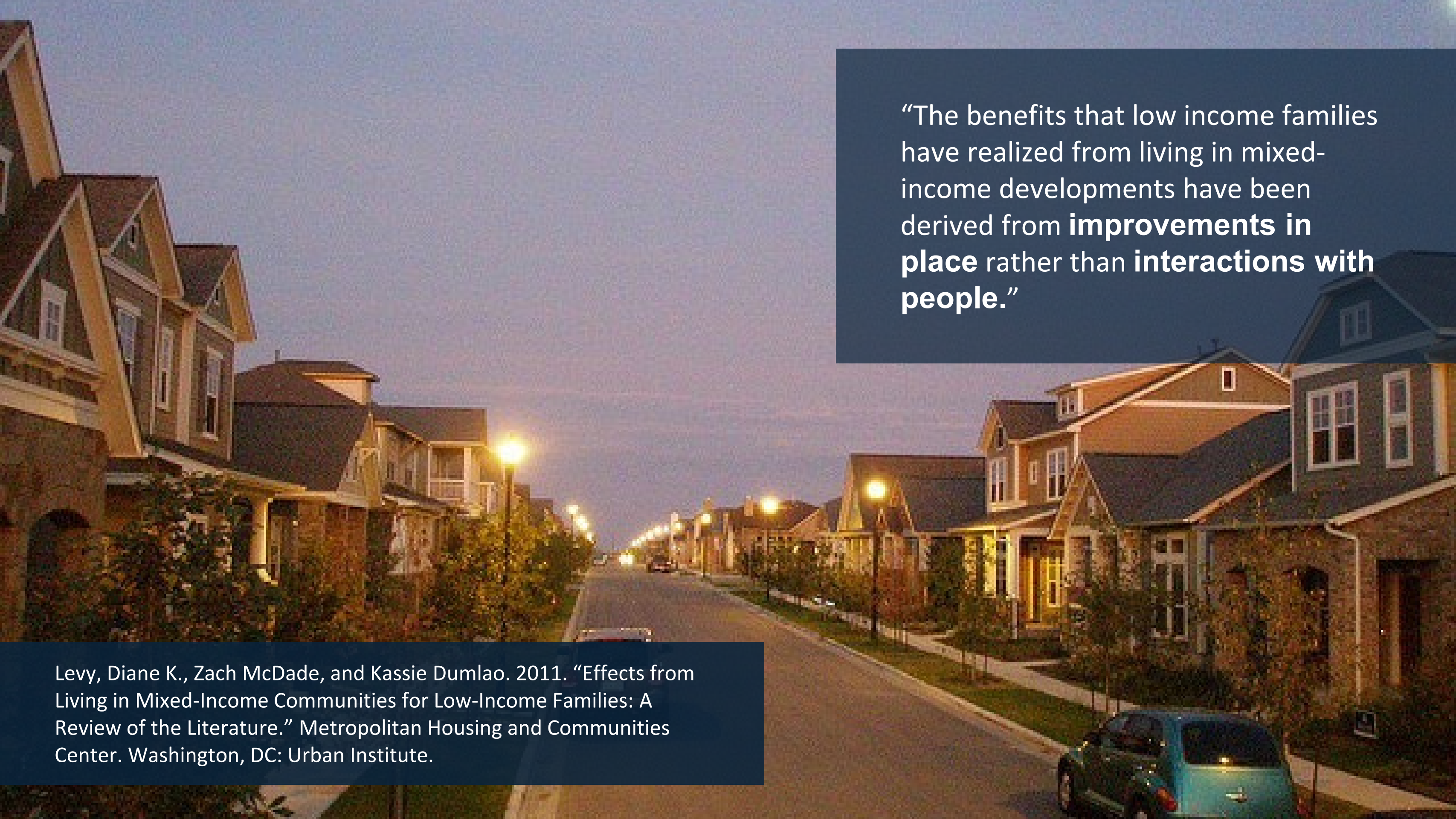
30th Percentile

Housing Choice
Voucher Holders

26th Percentile

**Inclusionary
Housing
(on site)**

**40th to 60th
Percentile**

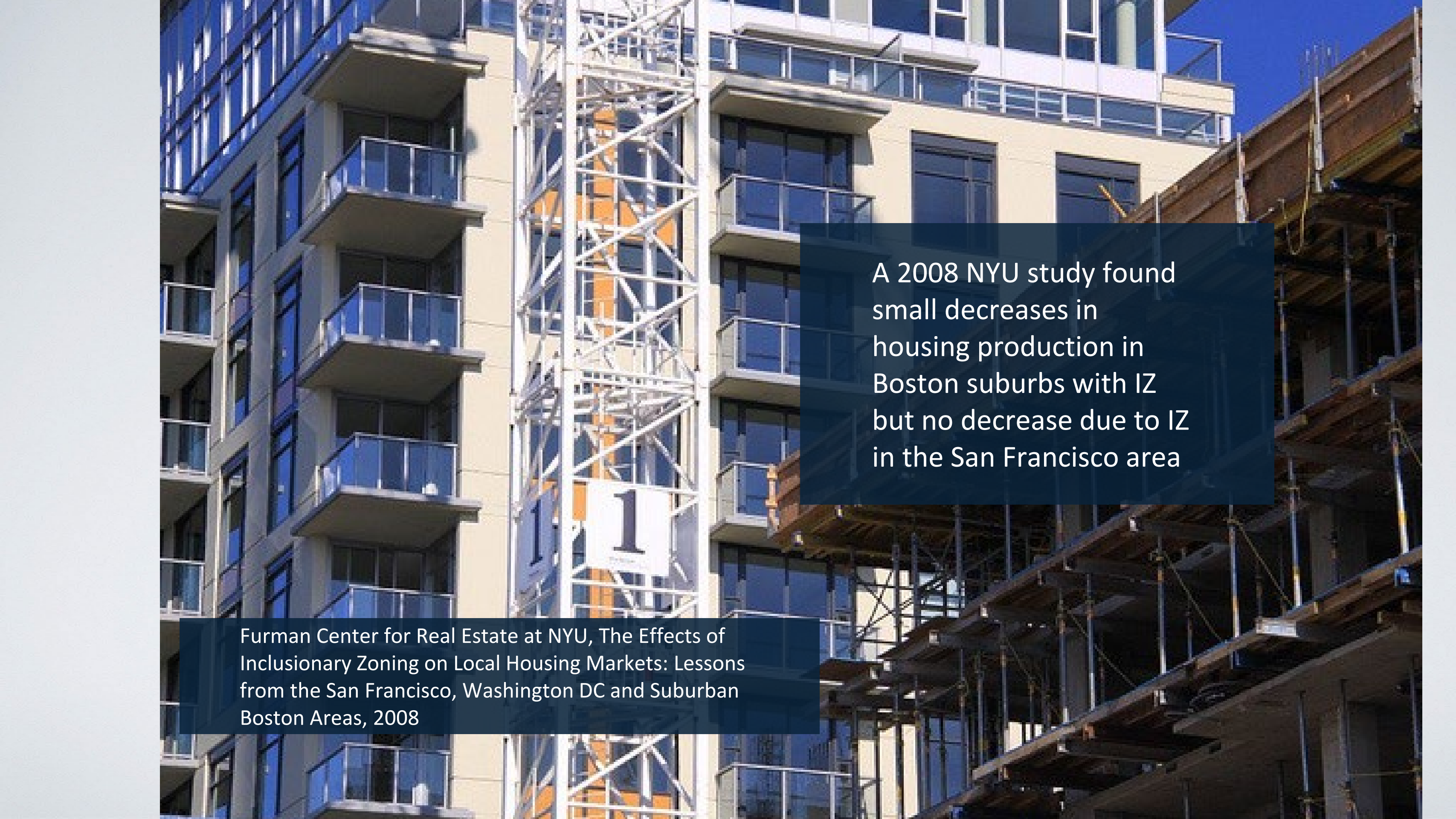


“The benefits that low income families have realized from living in mixed-income developments have been derived from **improvements in place** rather than **interactions with people.**”

Levy, Diane K., Zach McDade, and Kassie Dumlao. 2011. “Effects from Living in Mixed-Income Communities for Low-Income Families: A Review of the Literature.” Metropolitan Housing and Communities Center. Washington, DC: Urban Institute.

Compliance Alternatives

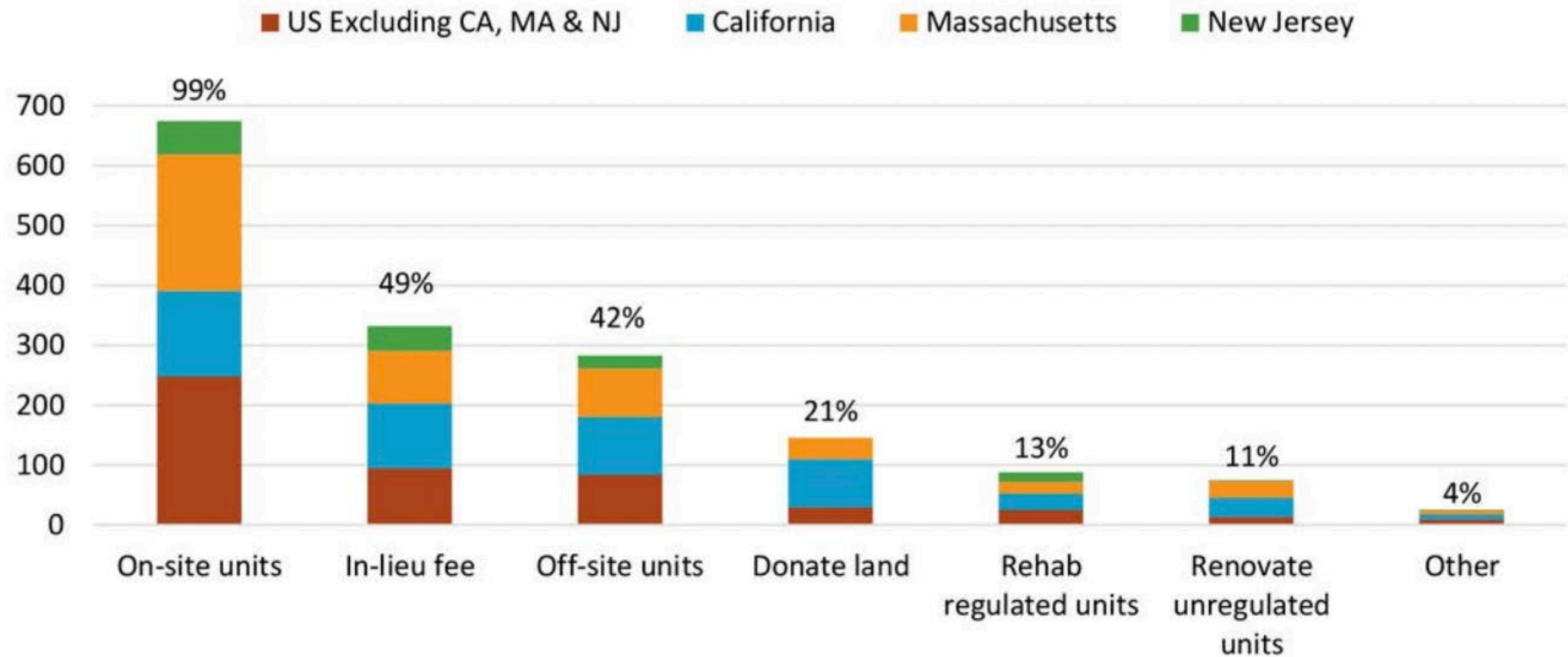




A 2008 NYU study found small decreases in housing production in Boston suburbs with IZ but no decrease due to IZ in the San Francisco area

Furman Center for Real Estate at NYU, The Effects of Inclusionary Zoning on Local Housing Markets: Lessons from the San Francisco, Washington DC and Suburban Boston Areas, 2008

Alternative Compliance Options



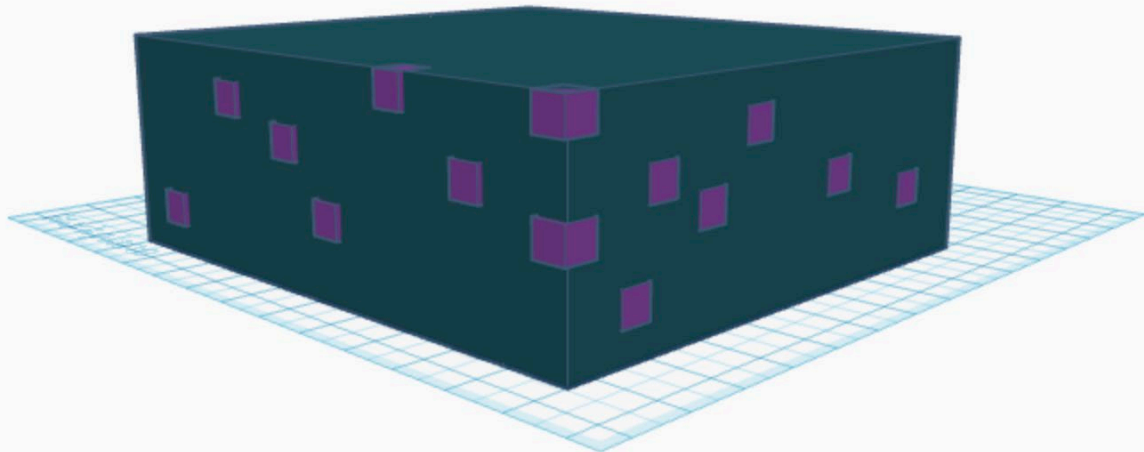
Source: Wang, R., and S. Balachandran. "Inclusionary housing in the United States: Prevalence, practices, and production in local jurisdictions as of 2019." *Lincoln Institute of Land Policy Working Paper*. Lincoln Institute of Land Policy (2019).

In Lieu Fees

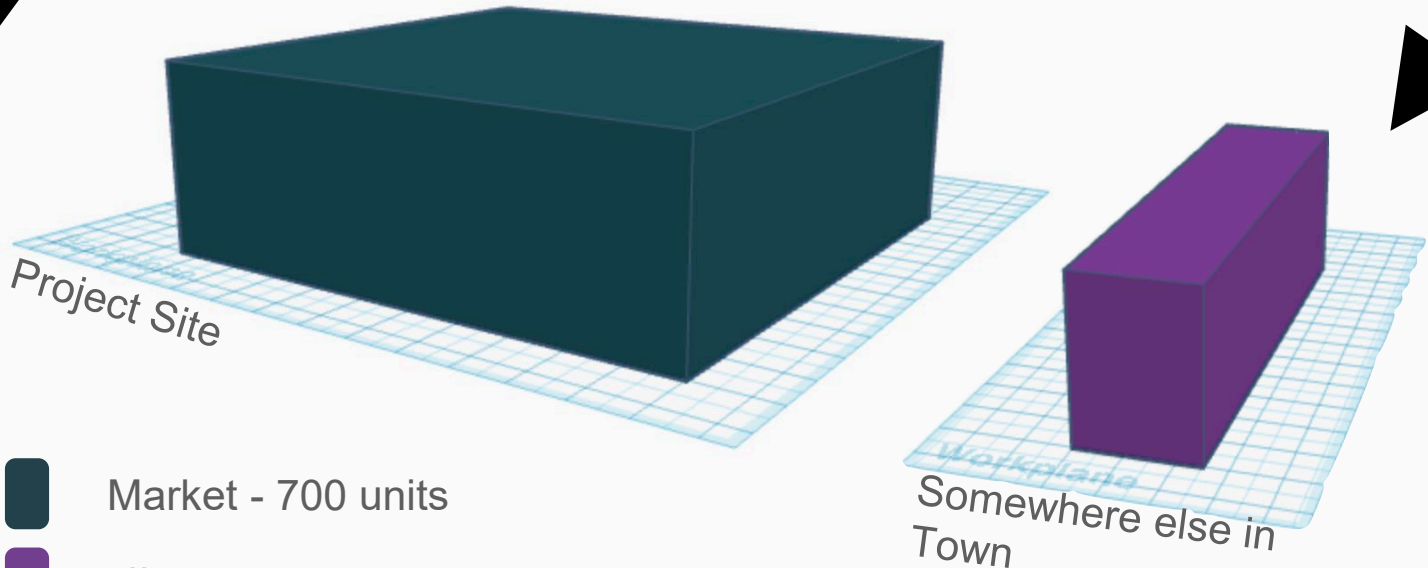
20% onsite

Or: Fee of \$39,746/unit

Example project: 700 units



- Market - 560 units
- Affordable - 140 units (20%)



- Market - 700 units
 - Affordable - 140 units
- 30-60% of AMI

In Lieu Fees

Pros

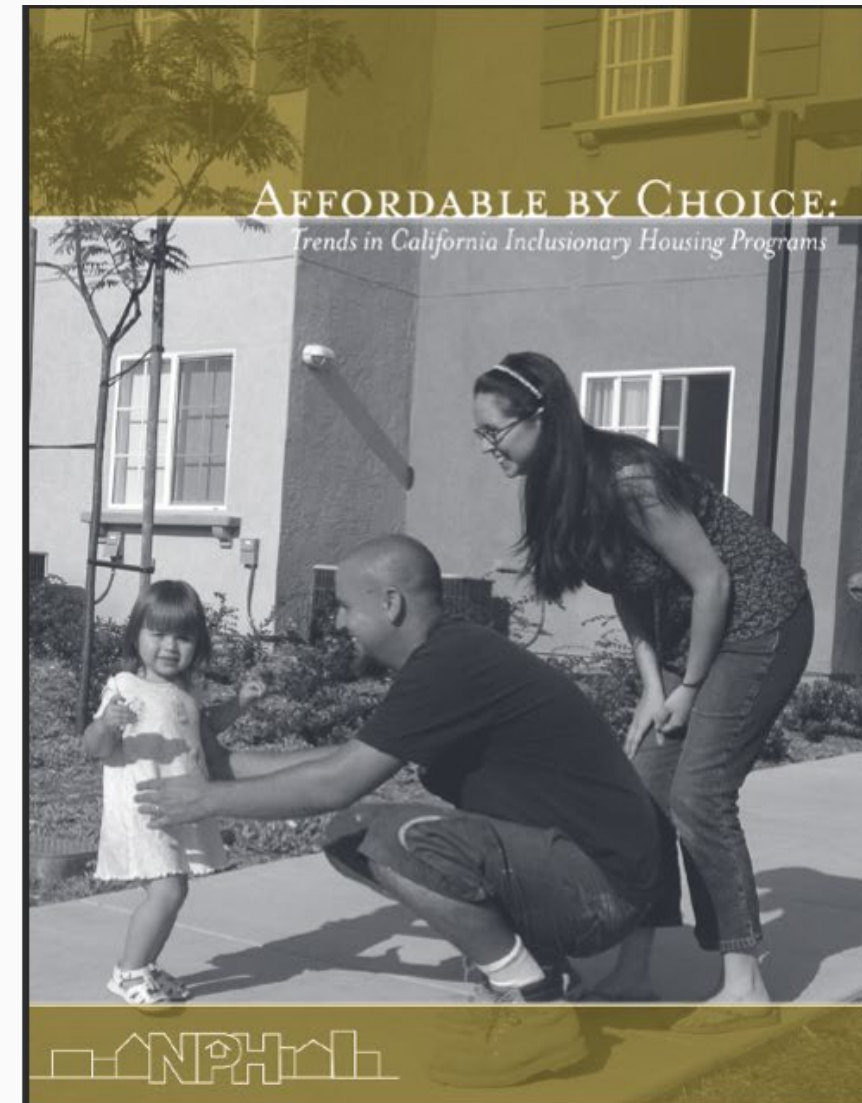
- Legal desirability of flexibility
- More units
- Potential for leverage of outside funds
- Use expertise of nonprofits
- Can simplify financing of market rate units
- On site performance hard to monitor
- More flexibility in what units are built

Cons

- Prices often set too low
- Can slow down the process
- Can be difficult to get units in neighborhoods if land is not available or too expensive
- There may not be strong non-profits to give the money to
- Subsidies may already be spoken for

2007 NPH Study

**Half of CA
inclusionary
programs that
collected in lieu
fees had never
spent them**



Nonprofit Housing Association of Northern California, California Coalition for Rural Housing, San Diego Housing Federation and the Sacramento Housing Alliance. 2007. "Affordable by Choice: Trends in California Inclusionary Housing Programs." San Francisco, CA: Nonprofit Housing Association of Northern California.

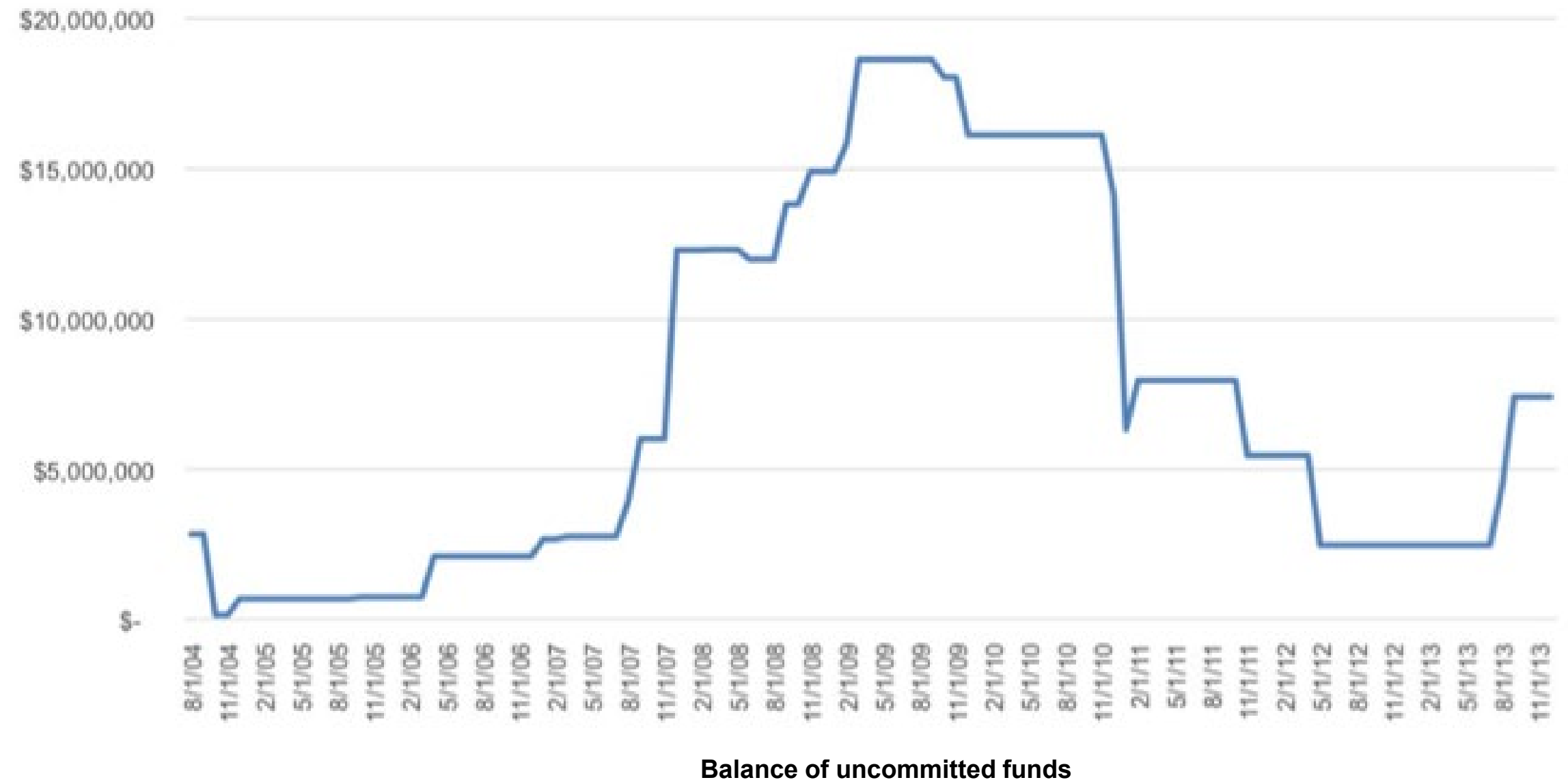


Case Study: Seattle, WA

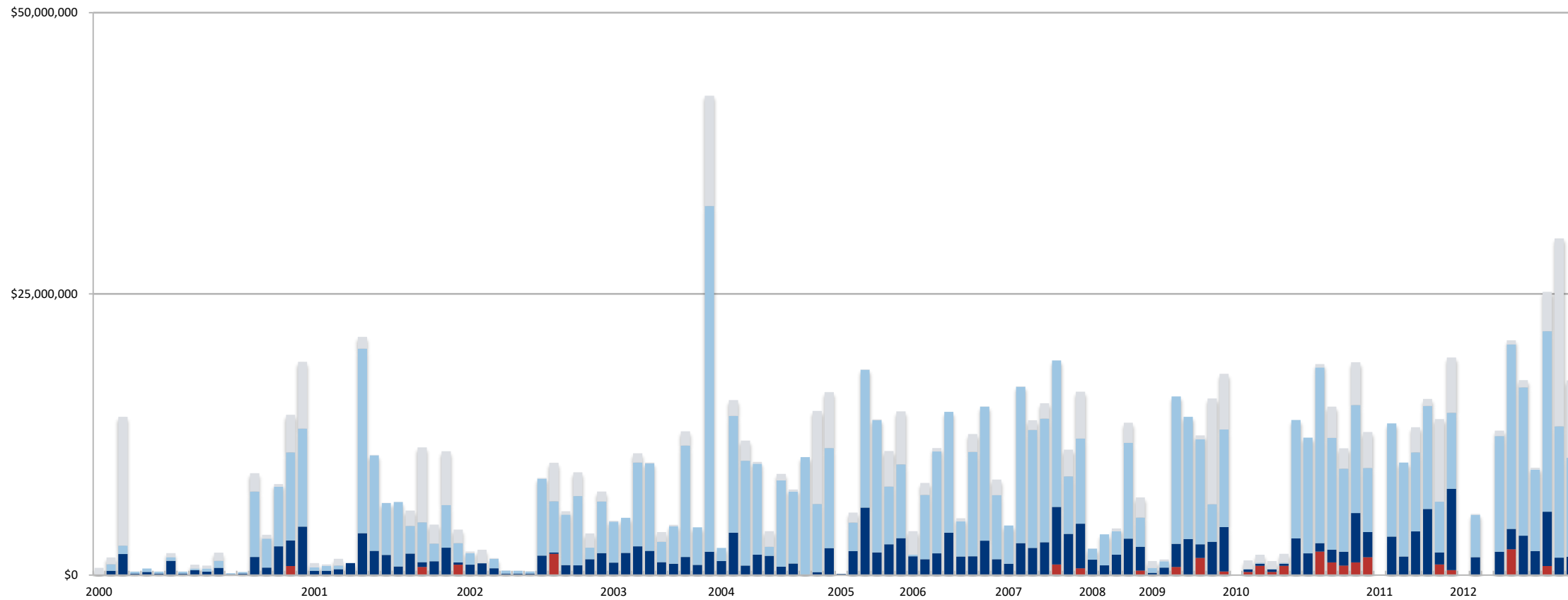
- Seattle Incentive Zoning Program
- Most developers were given a choice between providing units on site or paying a fee
- In every case, developers with the choice paid the fee
- **Should the program have required onsite units only?**

Case Study: Seattle, WA

Between 2000 and 2013 it took the Office of Housing an average of 47 months (3.9 years) to spend fee revenue.



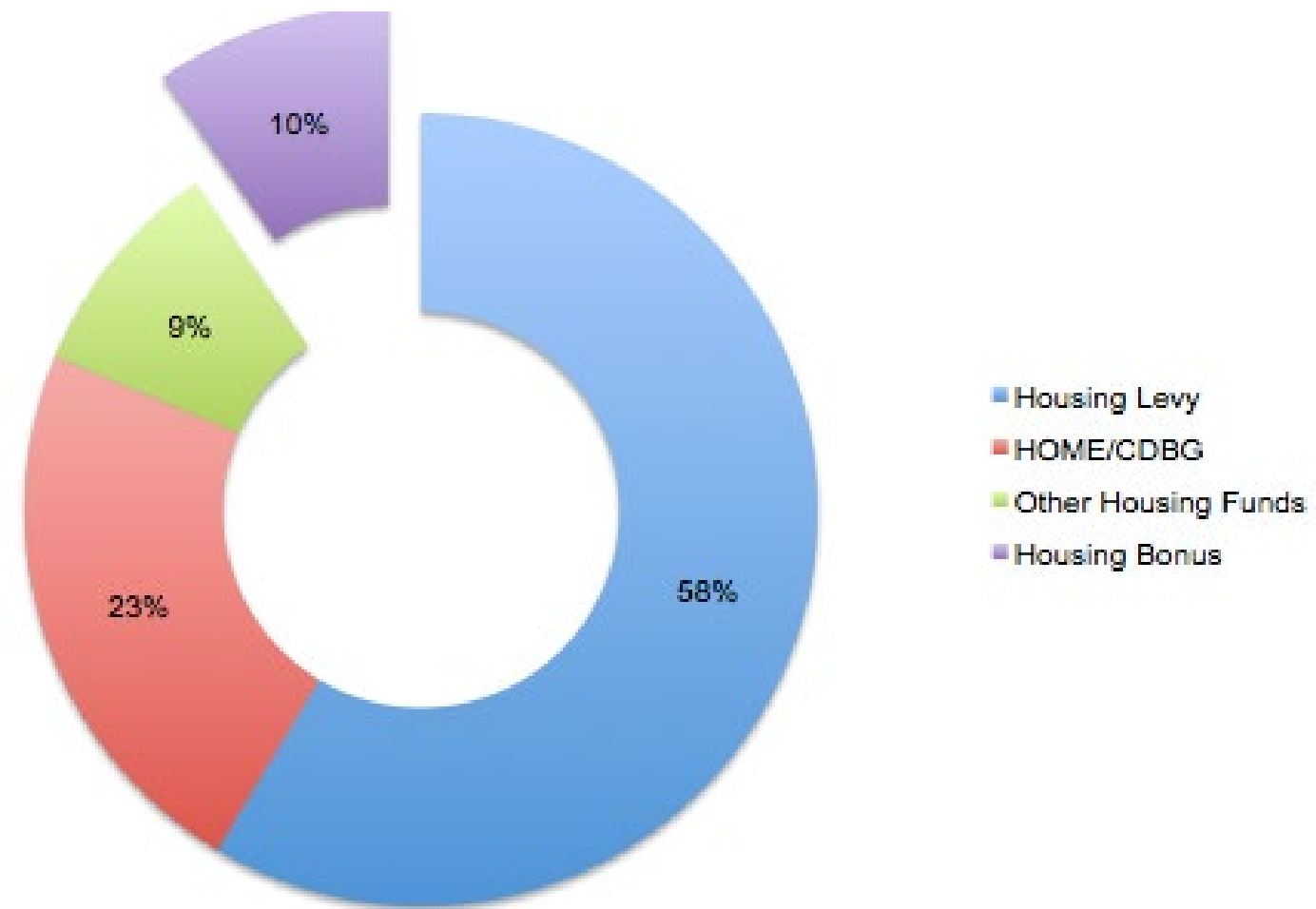
Case Study: Seattle, WA



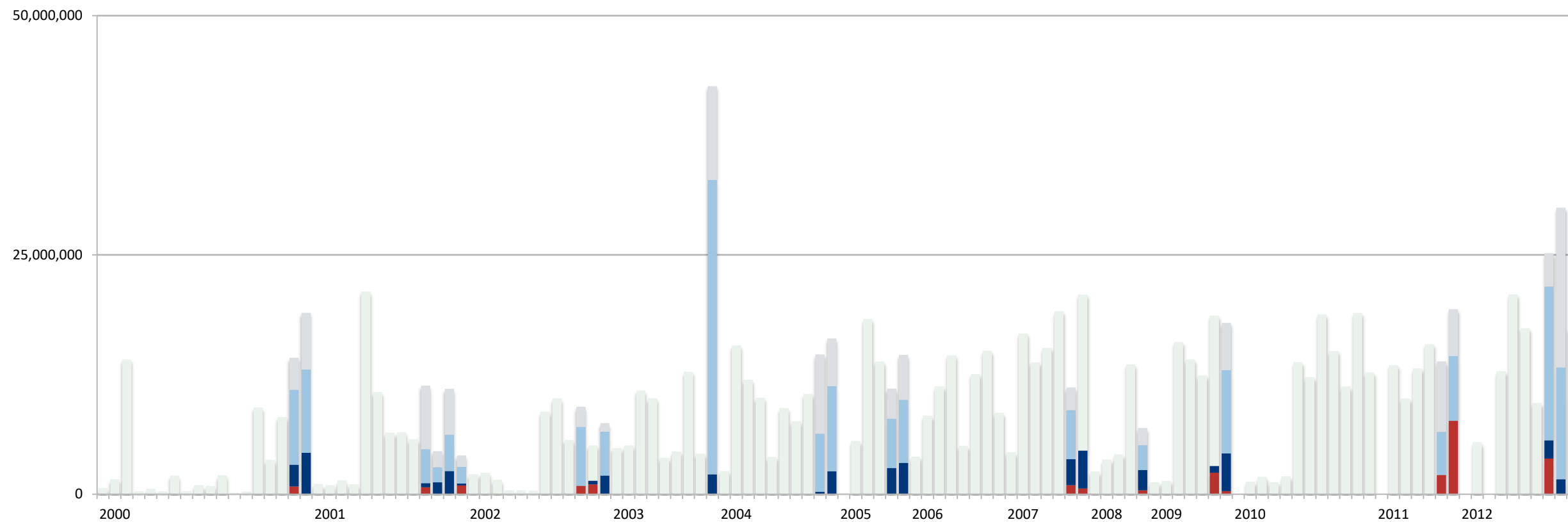
Overall between 2000 and 2012, Seattle invested \$230 million in 124 developments providing 6,338 units of affordable housing

Case Study: Seattle, WA

10% of that City investment came from Bonus funds (in lieu fees)



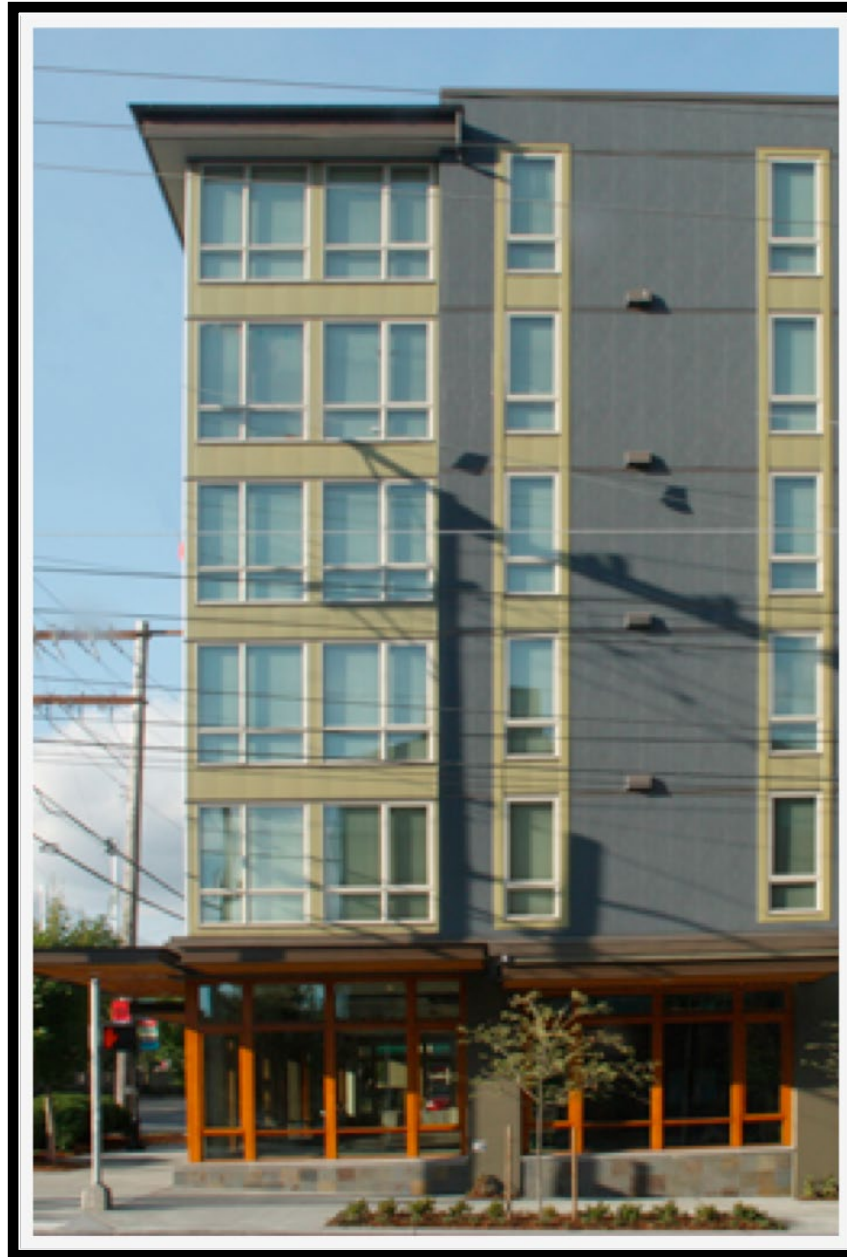
Case Study: Seattle, WA



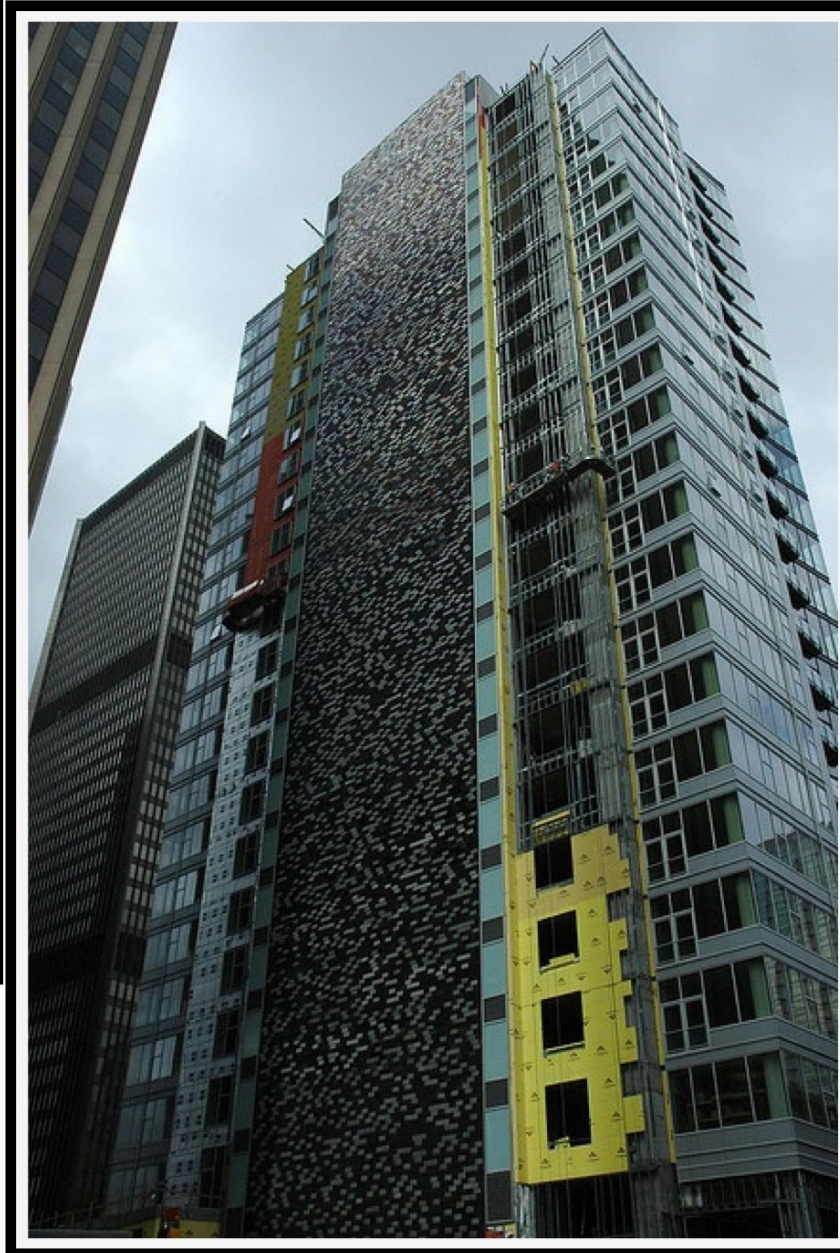
\$22,170,884 in Bonus Funds, led to the creation of 507 affordable units

This is three times the number of units that would have been provided onsite

The fee funded projects served households earning 30-60% of AMI



Case Study: Seattle, WA



Where on-site units would have served households at 80% of AMI

Off Site Development

Santa Rosa allows off site development of affordable units as long as they are located in the same quadrant of the city and don't receive any city funding.

Many cities require more units if built offsite.



Land Dedication

Walnut Creek allows dedication of land but only if the value exceeds the in lieu fee



B. *Land Dedication.* In lieu of building inclusionary units, the developer may dedicate to the City land within the City that the City determines is suitable for the construction of inclusionary units and is of equivalent or greater value than is produced by applying the City's current in-lieu fee to the inclusionary obligation.

Land Dedication: Dublin - Regional Street

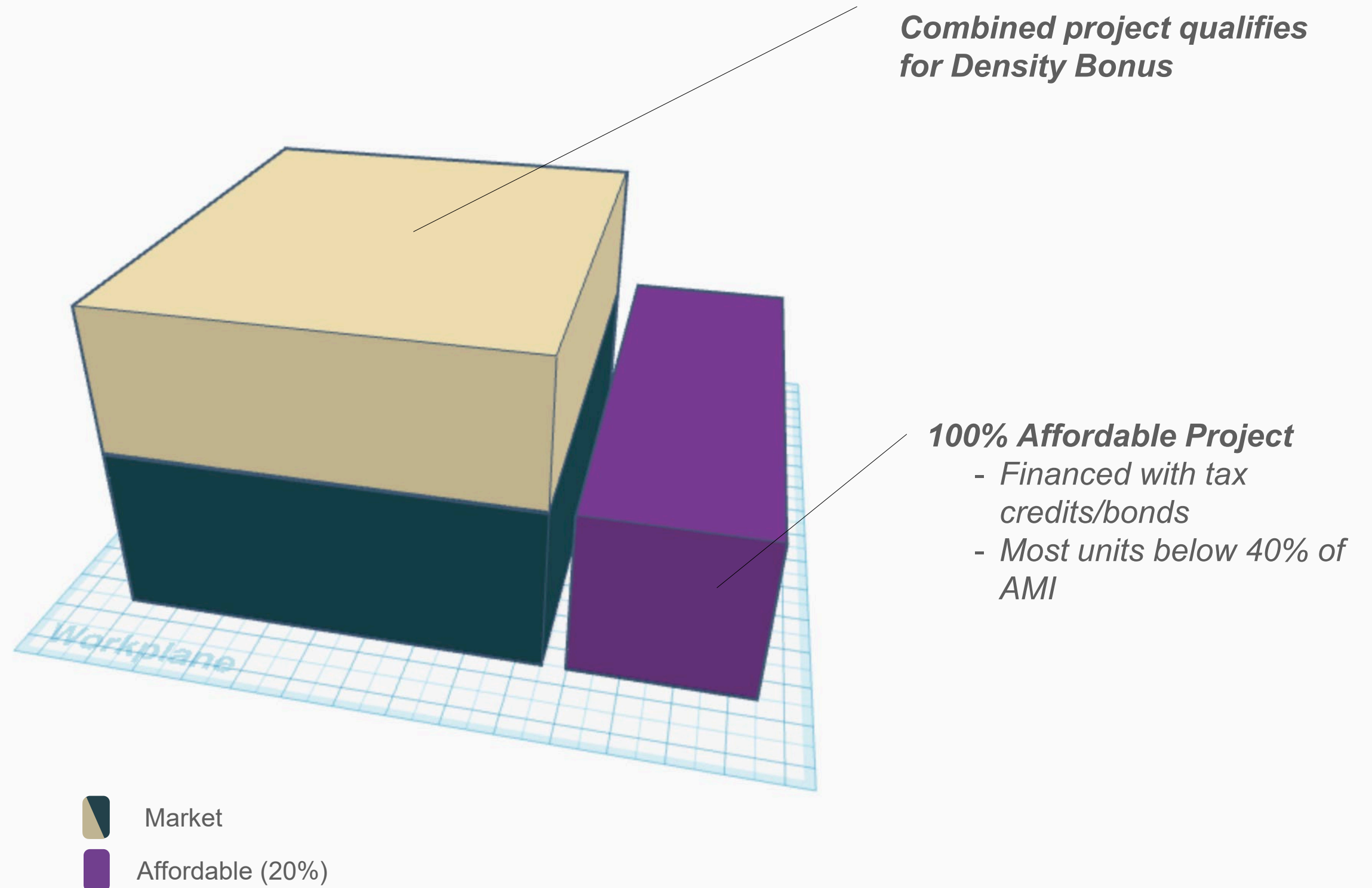
Instead of including 62 affordable units onsite, the developer donated land

The city transferred the land to Eden Housing who will build 113 units of more deeply affordable housing



Clustering

Some cities allow clustering units into 100% affordable buildings.



San Jose - Partnership for Clustered Units Option

- 15% affordable units - may be clustered in same building or contiguous parcel
- Affordable project developed by city approved nonprofit sponsor
- Only if clustering is required for financing
- Developer minimum contribution = 75% of In Lieu Fee
- Affordable project built first or concurrent with market buildings

Questions/Discussion



Image: Wilton Court, Alta Housing

Setting the In Lieu Fee



Image: Housing Land Trust of Sonoma County



Setting the Fee

1. Arbitrary/ What the neighbors do
2. Point of indifference
3. Local subsidy needed to build to build an affordable unit
4. Total subsidy needed



Per Market Rate Unit or Per Affordable Unit

Option A - Inclusionary

- 10% or \$200,000 per unit

Project

- 10 units/10% inclusionary
 - 9 market rate
 - 1 affordable (required)

Option B - Inclusionary

- 10% or \$20,000 per unit

Project

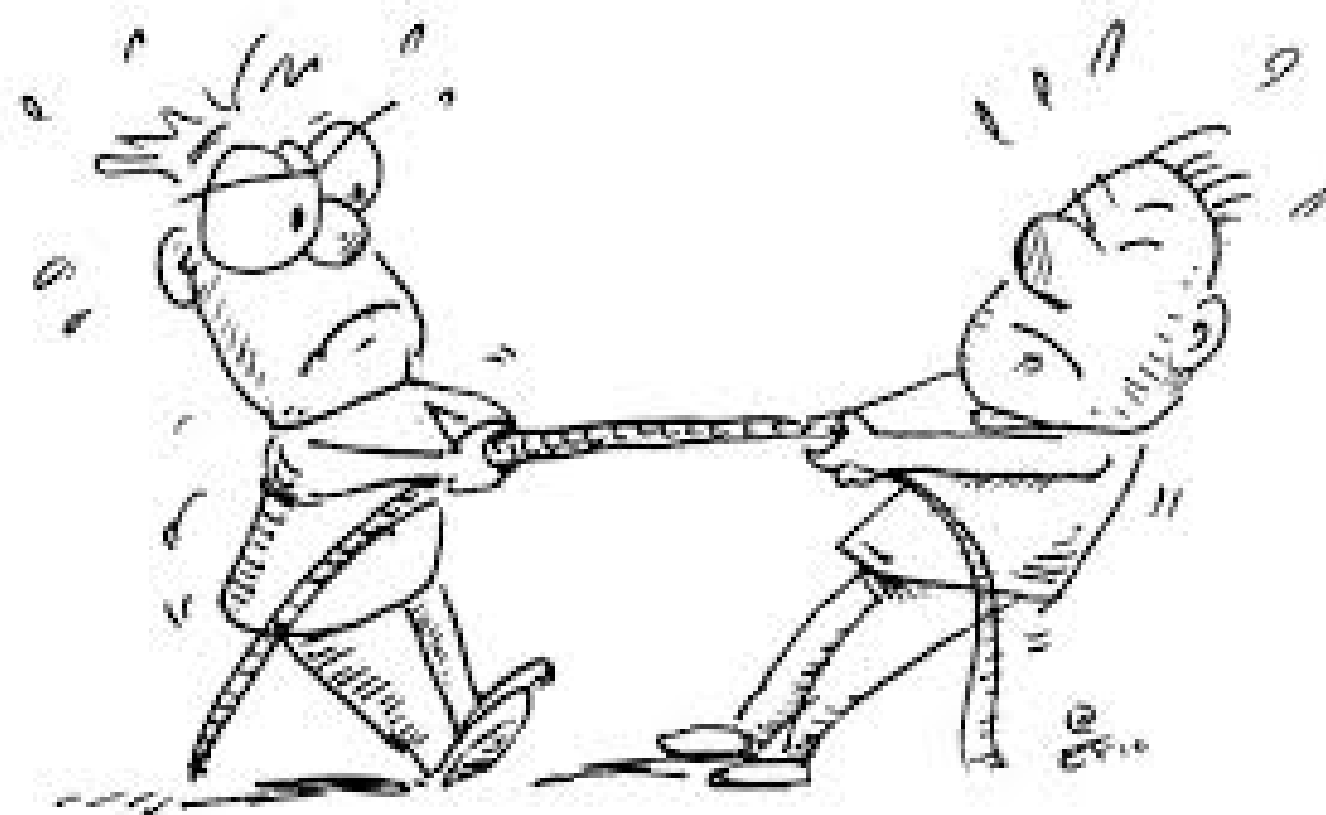
- 10 units/10% inclusionary
 - 9 market rate
 - 1 affordable (required)

$$1 \text{ afford unit} \times \$200,000 = \$200,000$$

$$10 \text{ market units} \times \$20,000 = \$200,000$$

Math hint: Multiply by inclusionary percentage

Arbitrary Fee



Low Fees

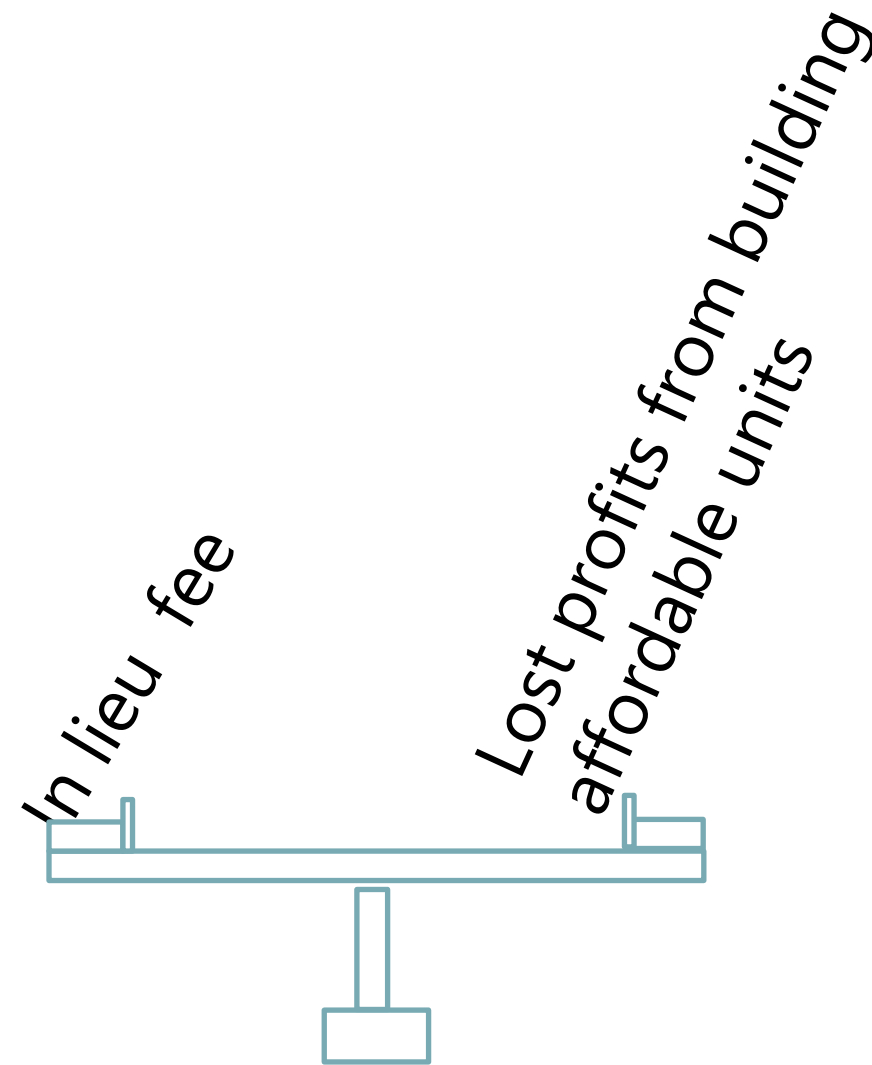
High Fees

Point of Indifference



Definition:

The fee level where the lost profit for the developer to build the unit is the same as the in lieu fee. Sometimes described as the cost to the developer.



Point of Indifference

For Sale Example:



Market Price
\$1M

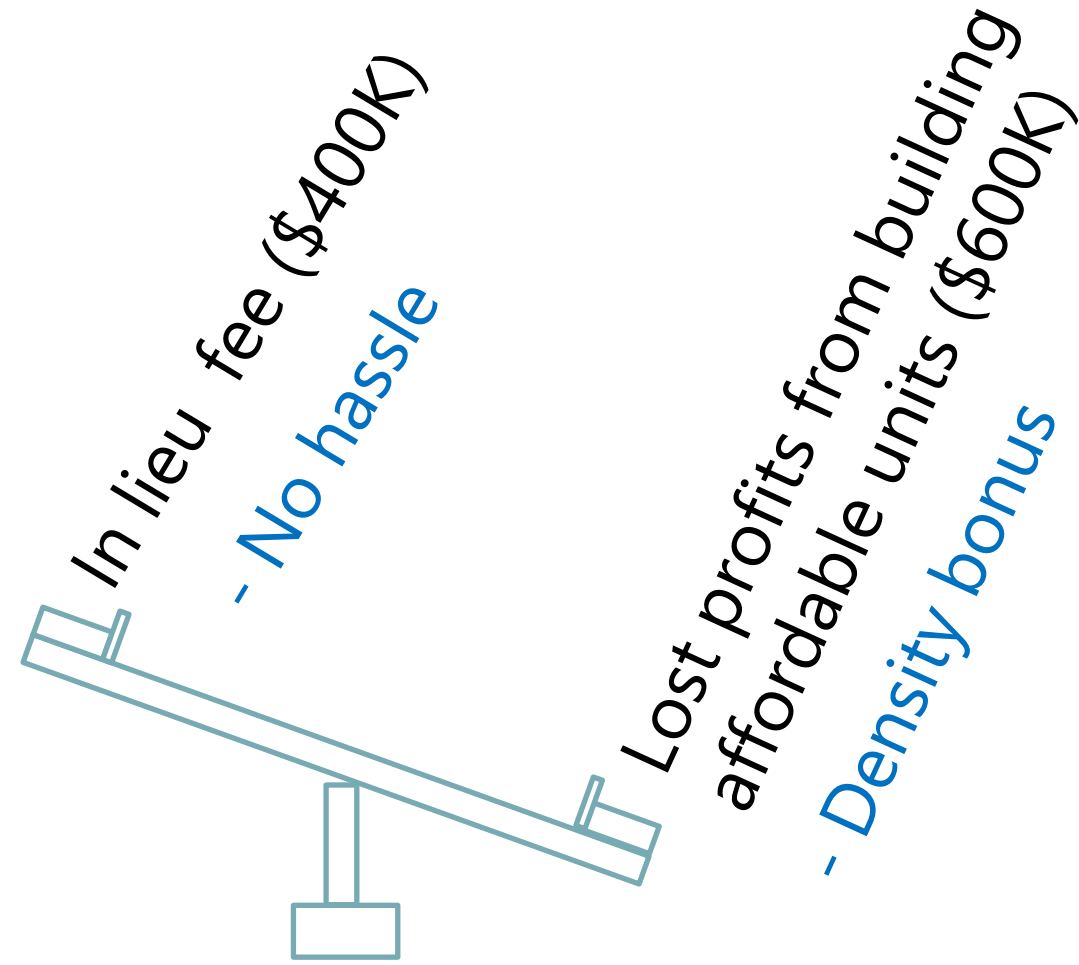
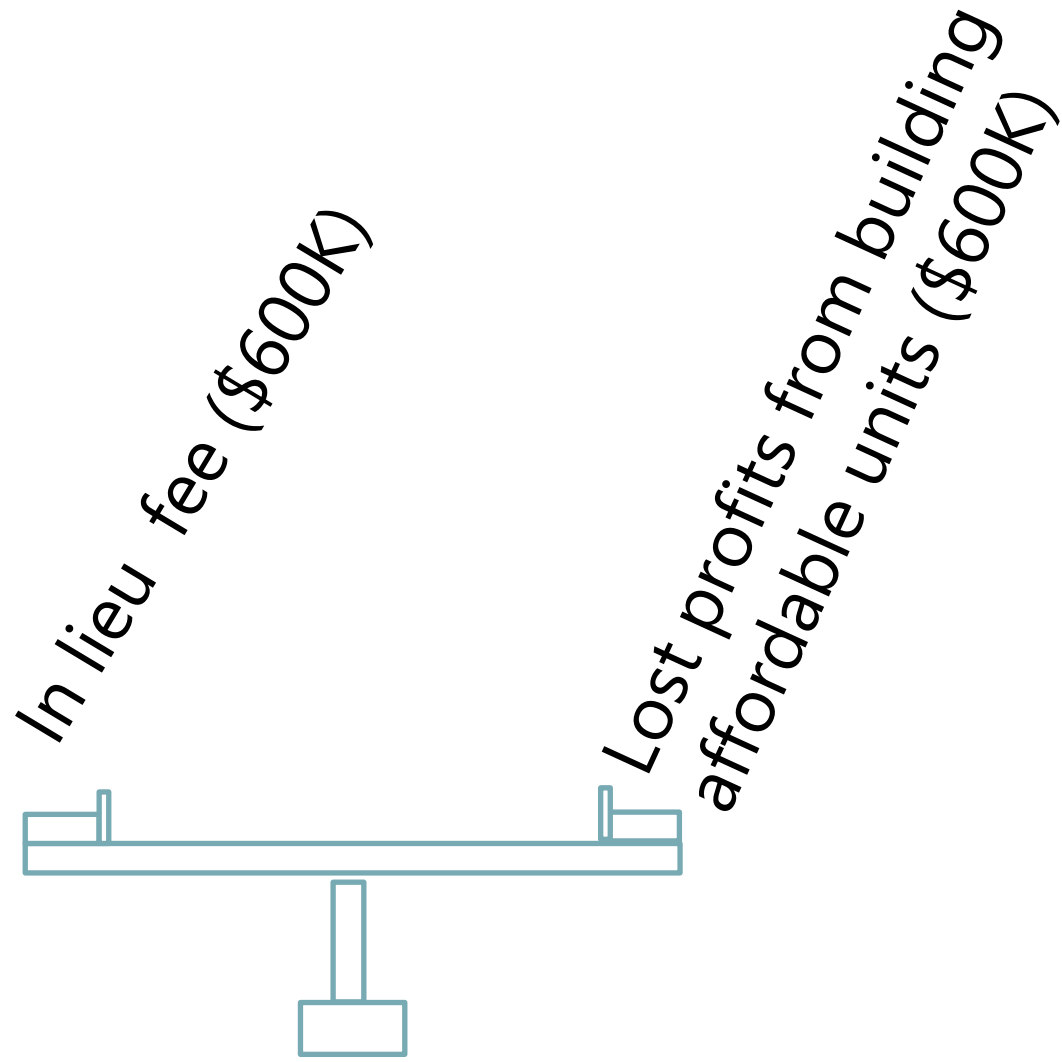
BMR Price
\$600K

Lost Profits
\$400K

Point of indifference

Point of Indifference

Example: Lost profit \$600,000



Point of Indifference

For Rent Example:



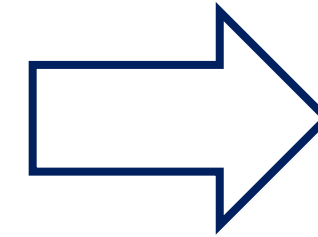
Market Rent
\$3,000



BMR Rent
\$2000



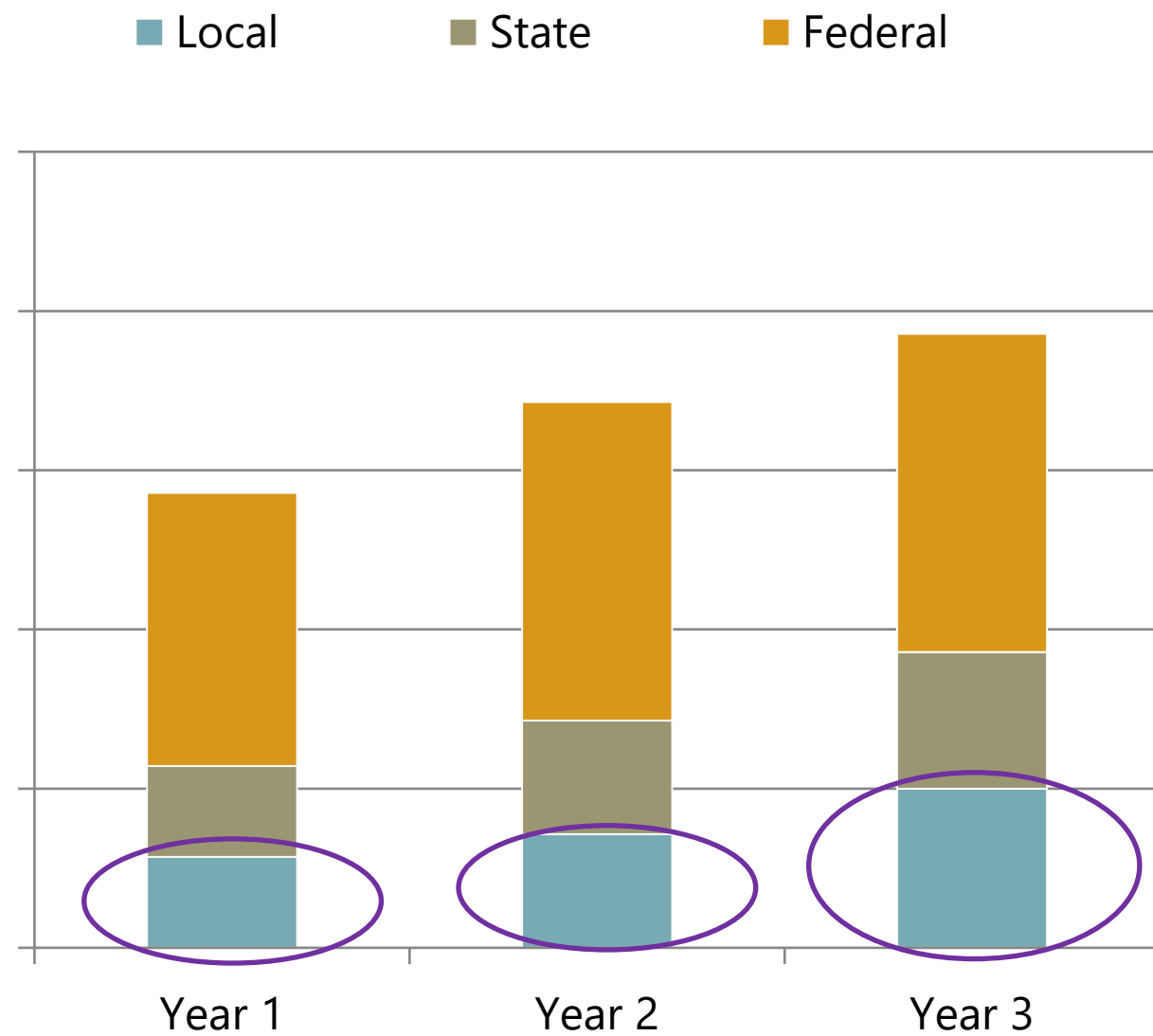
Lost rent
\$1000



Lower value or
sales price for
rental complex
\$200,000

Point of Indifference
\$200,000 per affordable unit

Local Subsidy Needed



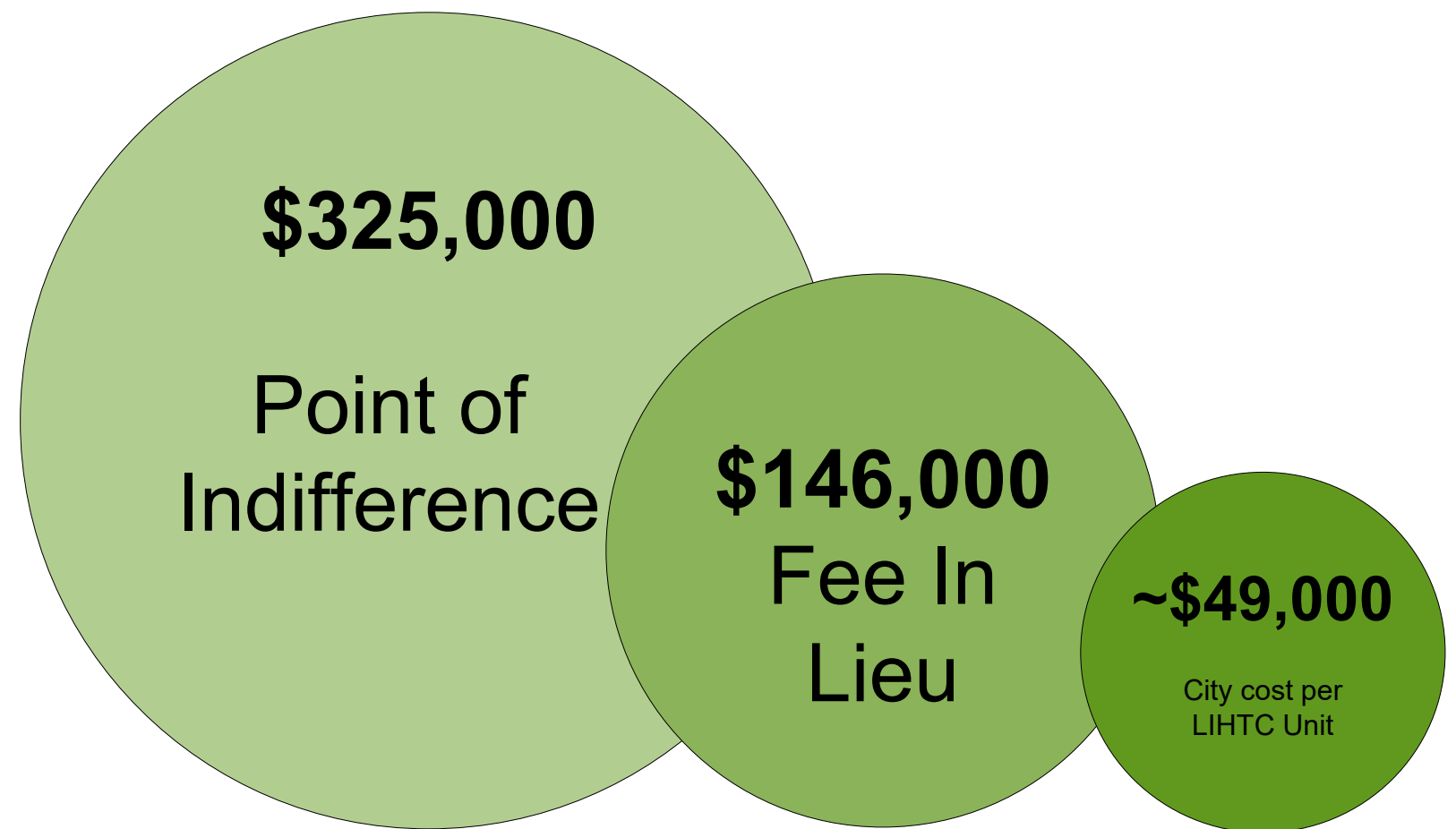
Growing level of subsidy per affordable housing unit

Local Subsidy Definition:

The fee amount is based on the average amount of local subsidy that is needed historically to produce one additional affordable unit in a 100% affordable development...

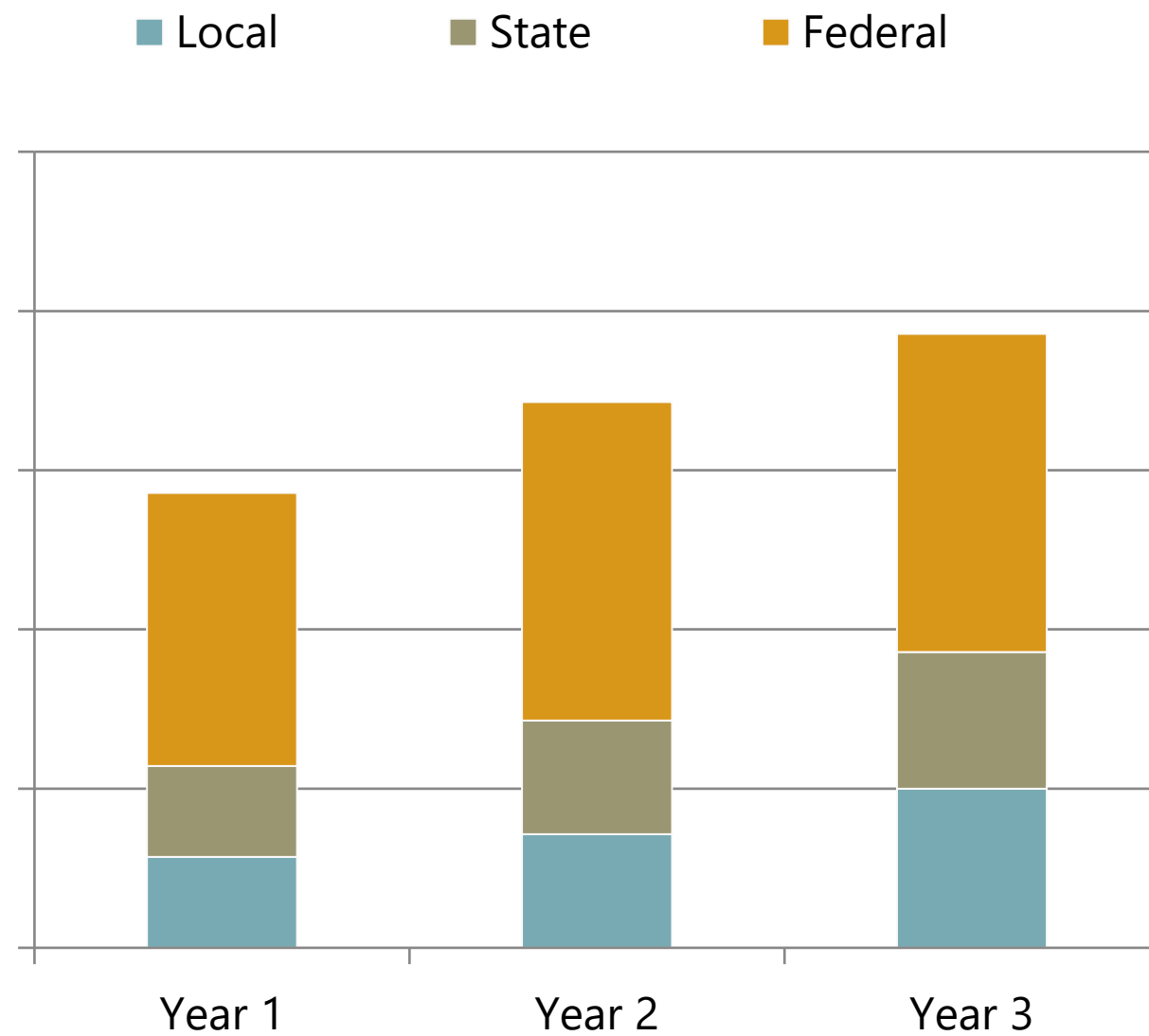


Example: Seattle 2016



Source: DRA Feasibility Study, Downtown Rental Prototype

Total Subsidy

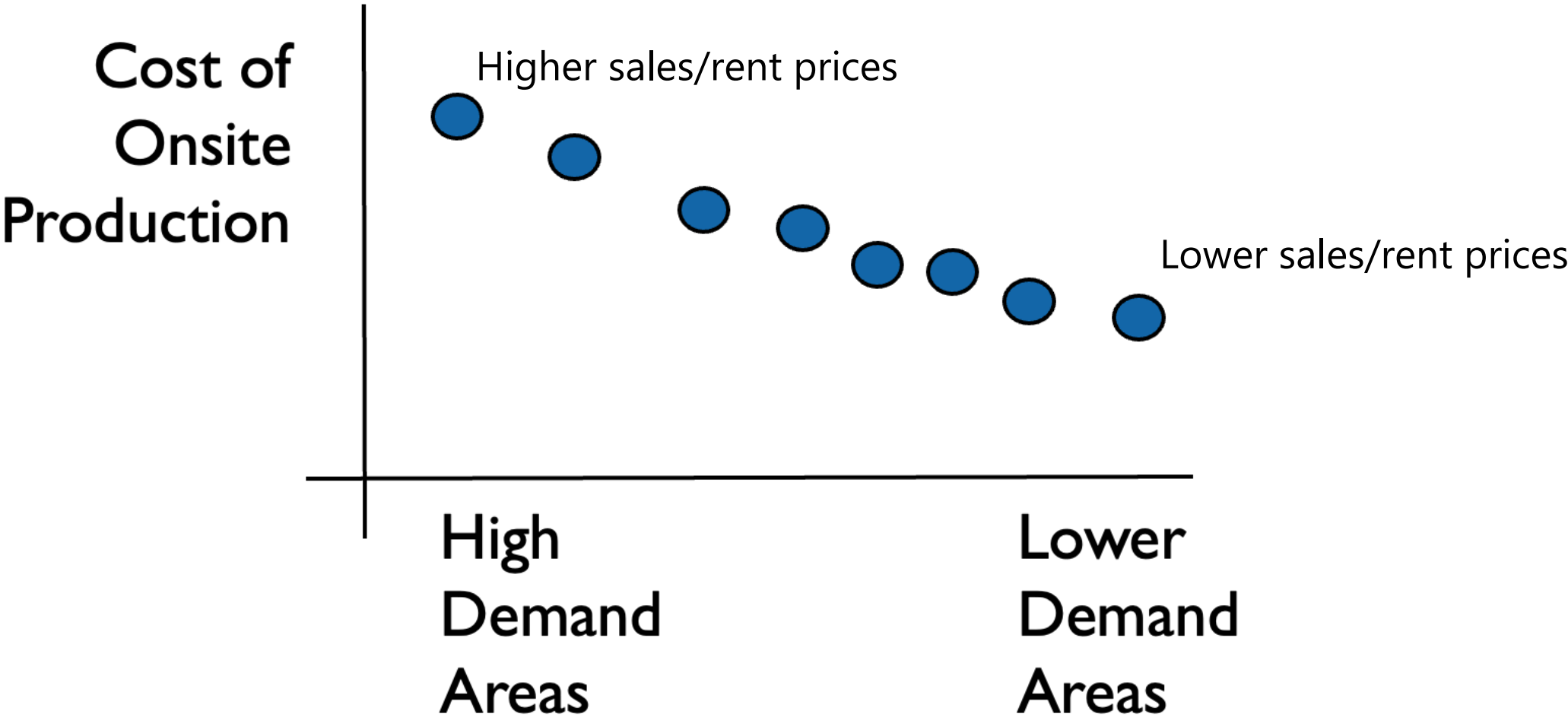


Growing level of subsidy per affordable housing unit

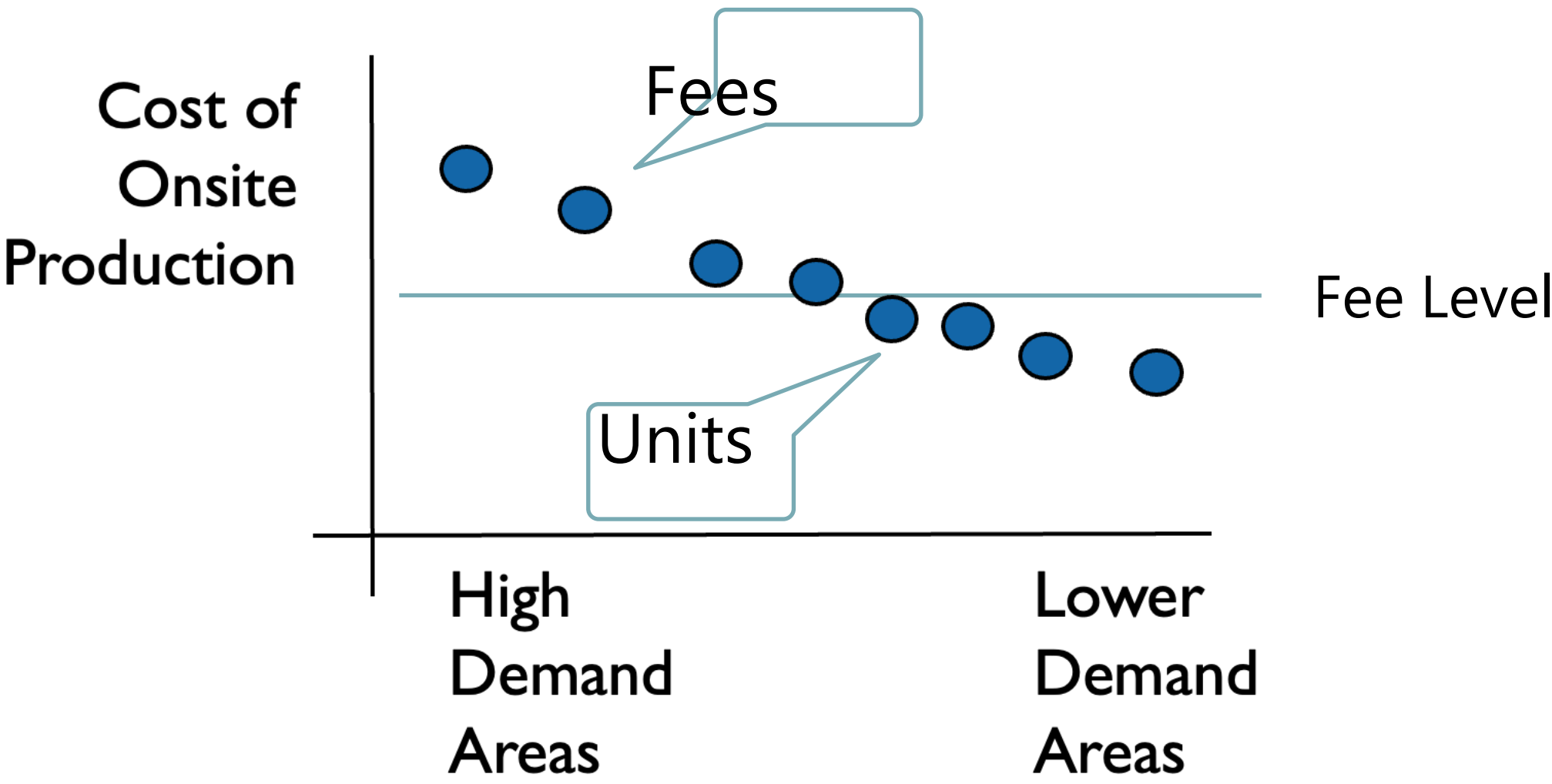
Total Subsidy Definition:

The fee amount is based on the average amount of *total* subsidy that is needed historically to produce one additional affordable unit in a 100% affordable development...

Geographic Differences



Geographic Differences



Small Buildings





Somerville, MA

Initial ordinance encouraged on site - “punitive” in lieu fee

As local nonprofit capacity grew, switched to encouraging fees

As it became harder for nonprofits to secure sites, switched back to encouraging on site

Key Take Aways

- Try to agree on the methodology first, then get accurate data for getting the fee
- Agree on goal, do you want on site units or fees
- Fees allow leverage, which can be very powerful
- If fee is priced too high, no one will do it
- If fee is priced too low, you could get more units
- While pro formas are complicated, in lieu fees are easier



Exercise





Exercise Instructions

Part 1 – Large group, individually
Part 2 – Small groups

Wait for the word to enter
the answer

Exercise Instructions

- 1) What would the in-lieu fee be per affordable unit if you based it on the point of indifference?
- 2) What would the in-lieu fee be per market rate unit if you based it on the point of indifference?
- 3) If you wanted to encourage on-site production, what's the minimum amount you should set the in-lieu fee at?
- 4) What would the in-lieu fee be per affordable unit if you based it on the local subsidy needed to build a unit at the same AMI (70%)? How about per square foot?

Questions/Discussion



Image: Wilton Court, Alta Housing

Office Hours

- *Use Calendly Link to reserve a time for 1-1 consultation*
- *<https://calendly.com/joshabrams/zoning-for-affordability>*

Image: Mayfair Station, El Cerrito

Thank You



COMMUNITY
PLANNING
COLLABORATIVE



Association of
Bay Area Governments



METROPOLITAN
TRANSPORTATION
COMMISSION

STREET
LEVEL