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Inclusionary housing in the United States: dynamics of local policy and outcomes in diverse markets

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ABSTRACT

Inclusionary housing (IH) ties the creation of affordable, below market-rate units with new development, and it is known to help address the affordable housing crisis and build inclusive communities. Yet, the absence of a national IH database limits our understanding of the prevalence, practice, and production of inclusionary housing in the U.S., and it creates barriers for further investigation and development of this affordable housing strategy. This study draws a national census of IH programs in the U.S. Through a comprehensive data collection between 2018 and 2019, a total of 1,019 local IH programs are documented in 734 local jurisdictions of 31 states and the District of Columbia. This study summarizes program design nationwide and features distinct patterns in California, Massachusetts, and New Jersey, where state laws largely impact program adoption and production. A subset of 258 programs reported producing about 110,000 inclusionary units, and 123 programs have collected close to \$1.8 billion in fees for affordable housing development.

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Inclusionary housing program; inclusionary zoning; affordable housing

Introduction

The affordable housing crisis in the U.S. is severe and persistent, with nearly 38 million cost-burdened households — 31.5% of all households — paying more than 30% of their incomes on housing in 2017 (JCHS, 2019). Rising rents and home prices undercut slow gains in income, spreading housing unaffordability to nearly every income bracket (National Housing Conference, 2018). In particular, the combined effect of the lagging supply of moderately priced new housing and the continuing loss of low-cost rental homes has disproportionately affected lower-income households and people of color. Amidst diminishing federal housing subsidies, the ongoing COVID-19 pandemic, and a growing demand for entry-level housing, many local governments face the daunting challenge of improving access to affordable housing, especially for low- and moderate-income populations.

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Among a range of policy interventions, inclusionary housing (IH, often also referred to as inclusionary zoning) has been adopted increasingly as a local government-based response to address affordable housing shortages (Jacobus, 2015; Schwartz et al., 2012; Thaden & Wang, 2017). Through IH, local jurisdictions require or encourage developers to contribute to the creation of affordable housing for lower-income households when market-rate development takes place, usually on-site as part of the development project. As such, increasing the supply of affordable housing and fostering economic and racial integration are the two principal objectives of IH (Calavita et al., 1997; Hickey et al., 2014; Sturtevant, 2016).

Nonetheless, IH can be a complicated and controversial policy approach — complicated in a sense that the efficacy of IH is subject to both ever-changing market dynamics and vagaries of local and state political landscapes; and controversial because leveraging market activities to meet local affordable housing needs for public good often raises opposing viewpoints on the roles of the private sector (Calavita et al., 1997; Williams et al., 2016). These traits of IH lead to uneven distributions of programs across the nation, wide variations in program design, and significant differences in terms of productivity. As a result, empirical findings about the impact of IH on affordable housing productivity and housing markets are mixed (Ramakrishnan et al., 2019). The lack of a comprehensive, updated, and comparable database has led to scholarly work relying primarily on the same small subset of programs to examine their effectiveness and impact (Jacobus, 2015; Nzau & Trillo, 2020; Schwartz et al., 2012). Hence, a comprehensive national IH database is warranted to support research and inform policy design and updates.

Building on past efforts (Hickey et al., 2014; Thaden & Wang, 2017), this study fills the gaps in understanding IH by conducting a national census of programs and documenting their prevalence, practices, and production. Inclusionary housing programs and inclusionary zoning policies are often used interchangeably. For this study, we prefer the former term over the latter for two reasons. First, although in most cases inclusionary housing is part of a zoning ordinance or bylaw, our data collected through this study shows that occasionally, it may not be articulated in legislation. Second, we use the term ‘program’ to capture the varied aspects of policy implementation and administration — such as compliance, monitoring, and outcome tracking — that is often not written in the ordinance.

Literature review

Origin and growth of IH in the U.S

The concept of inclusionary housing emerged during the late 1960s with housing advocates calling for racial and economic integration, waning federal housing subsidies, and growing use of regulatory exactions by local governments to address affordable housing issues (Porter, 2004). The first inclusionary housing policy was enacted by Fairfax County, Virginia, in 1971, though it was soon struck down because of the absence of state legislative permission in a Dillon’s Rule state where local governments can only exercise powers explicitly stated in the state law (Brown, 2001). Several inclusionary housing policies emerged during the early and mid-1970s in the

Washington, D.C., metropolitan area, Massachusetts, and the San Francisco Bay Area (Porter, 2004; Thaden & Wang, 2017). The rapid appreciation of housing prices and increasing concern over housing unaffordability in the 1980s and 1990s stimulated a new wave of IH programs. This was followed by accelerated growth of IH programs during the first half of 2000s.

National counts of IH programs started around this time, although estimates are inconsistent. As of 2004, it was estimated that over 600 local jurisdictions had instituted some form of inclusionary housing, and that the total number of inclusionary units ranged from 80,000 to 90,000 (Porter, 2004). California, Massachusetts, and New Jersey — known as the ‘big three’ states with a large number of local jurisdictions administering IH programs — together created about 65,000 inclusionary units due to incentives and requirements in state law (Porter, 2004). Calavita & Mallach (2010) estimated that a total of 500 IH programs existed as of 2010. This estimate was updated by a study that compiled the first national inventory of IH programs in nearly 500 local jurisdictions of 27 states and Washington, D.C. (Hickey et al., 2014).

In 2017, a national study identified a total of 1,379 IH programs in 791 jurisdictions. The study found that a subset of 675 jurisdictions created over 173,000 inclusionary units. For programs collecting fees in-lieu of on-site affordable housing development, 373 jurisdictions reported a total of \$1.7 billion in fee collection (Thaden & Wang, 2017). The significant increase in the number of both jurisdictions and IH programs compared to previous efforts was in part due to the study’s broader definition of IH. However, as acknowledged by the authors of the study, the first census of IH still deviates substantially from the true population of IH programs and falls short of describing program characteristics. In summary, the discrepancy in national IH counts found in the past is likely because the previous studies applied varying IH definitions, were conducted in different years, and used different methodologies.

Factors affecting adoption of IH programs

Local influences

Local housing market dynamics affect the adoption and efficacy of IH programs. Inclusionary housing is often viewed as a reaction to exclusionary zoning, which limits residential development – primarily through single-family zoning and restricting the development of multifamily and affordable housing development – to exclude people deemed undesirable in higher-income neighbourhoods and was intrinsic to the American suburbanization. Studies have documented the negative effects of restraining affordable housing development, including racial and income segregation, job-housing imbalance, and traffic congestion (Anacker, 2020; Brown, 2001; Ellickson, 1981; Jacobus, 2015). Because the creation of inclusionary units typically ties to newly constructed developments, IH is more likely to be adopted in affluent suburban communities with relatively low base zoning and vibrant housing markets characterized by high housing prices and/or high housing price growth (Anacker, 2020; Dawkins et al., 2017; Schwartz, 2014).

In addition, local political factors play a role in the likelihood of IH adoption, as most IH programs are adopted through the legislative process. Meltzer & Schuetz (2010) identified three constituencies that might influence the adoption of IH programs. The first constituency is local residents, whose political preferences may be in favour of or against IH. The second one is local non-profits, which play a critical role as advocacy groups in the adoption of IH. For example, housing advocates pushed Montgomery County, Maryland, and Fairfax County, Virginia, to adopt their respective inclusionary zoning ordinance (Levy et al. 2012). And non-profits in the San Francisco Bay Area provided political support and their expertise on local affordable housing needs, both of which facilitated the adoption of IH in the area (Meltzer & Schuetz, 2010). The influence of local advocacy groups can be amplified by political campaign of regional non-profits and technical support of national non-profits (Grounded Solutions Network, 2021; Meltzer & Schuetz, 2010). The third constituency is private housing developers or landowners, who may oppose the adoption of local IH programs (Meltzer & Schuetz, 2010).

Regional influences

Regional initiatives can also influence the adoption of local IH programs (Armstrong et al., 2008; Porter, 2004). Municipalities in Westchester County, New York, for example, are subject to a federal consent decree as a result of the county's non-compliance in meeting its fair housing obligations while being a recipient of Community Development Block Grant (CDBG) funds (Hannah-Jones, 2013). As a result, many municipalities in this county have adopted inclusionary housing. Another example is New York's Long Island Workforce Housing Act, a state law requiring housing developments in the two counties of Long Island to set aside 10% of their housing units as affordable housing (Long Island Workforce Housing Program, 2008). In Illinois, Chicago's Metropolitan Planning Council identified strategies to address regional affordable housing issues and facilitated community discussion of inclusionary housing, which resulted in the adoption of IH in suburban jurisdictions (Porter, 2004). Also, the '21 Elements' collaborative planning project in San Mateo County, California, helped 15 jurisdictions in the county in developing both IH and impact fee programs (21 Elements, 2021). In addition, scholars point to the 'bandwagon' effect — jurisdictions neighboring those with IH programs are more likely to adopt similar programs. Clusters of jurisdictions with IH are documented in Boston, Washington, D.C., the San Francisco Bay Area, and Denver areas (Armstrong et al., 2008; Porter, 2004). However, Meltzer & Schuetz (2010) did not find that jurisdictions responded to their neighbours in their choices to adopt IH in the San Francisco Bay Area.

State policy framework

Besides local and regional forces, the state legal framework and respective local political landscape influence the adoption and efficacy of IH programs. Cowan (2006) classifies three state-level legislative approaches that affect local adoption of IH programs: explicitly granting local jurisdictions the power to adopt IH programs, requiring affirmative measures for affordable housing from local jurisdictions, and

mandating municipalities to contribute to their ‘fair-share’ of regional affordable housing needs. Hollister et al. (2007) conducted a comprehensive survey of 50 state-level statutes and regulations to examine whether local jurisdictions had the authority to enact IH. They found that 13 states either expressly authorize IH or clearly imply such authorities; seven states had no express authorization for IH, but one or more major jurisdictions have adopted IH programs in spite of lack of express authorization; two states prohibited IH by statute; and 26 states had no express or implied authorization or prohibition and no major jurisdictions with adopted IH programs (Hollister et al., 2007). The Inclusionary Housing Map developed by Grounded Solutions Network updates this assessment of state legal frameworks for local IH. It groups 50 states into four types: nine states that explicitly permit all types of IH policies, 11 ‘home rule’ states that do not prohibit rent control and do not pose legal barriers to local adoption of IH, 23 states with legal barriers but without explicitly prohibiting IH policies, and seven states that clearly prohibit at least some form of local IH policies (Grounded Solutions Network, 2017).

There are state-level IH policies — such as California’s Density Bonus Law, Massachusetts’ Chapter 40B and Chapter 40R, and New Jersey’s modified inclusionary zoning regulations — that directly result in creation of affordable units and/or influence adoption of local IH policies. Local governments’ reactions to these state directives vary; some municipalities adopt provisions in their zoning ordinances in full compliance with state IH law, others include elements of state regulation in their ordinances, and still others refuse compliance.

IH program features

A study reviewing IH practices in seven countries relates the varying form and design of IH to two opposing views: compensation versus recapture (Calavita & Mallach, 2010). The view of compensation posits that IH programs are essentially taxes on the new development (Ellickson, 1981), and developers should be compensated for the provision of affordable housing because such provision imposes a burden on the property rights of landowners (McClure, 2012). In contrast, the view of recapture (also called land value capture) holds that it is a fair and equitable practice for the public to appropriate a reasonable share of the increased land value caused by the public sector’s permission of new development; and such appropriation should be in the form of community benefits, including affordable housing (McClure, 2012; Nzau & Trillo, 2020). While value recapture has generally not been part of the planning culture in the U.S. (Calavita & Mallach, 2010), some localities have engaged in recapture mechanisms either through affordable housing requirements in their IH programs or through regulatory financing schemes (e.g., development impact fees and commercial linkage fees, which are considered a form of IH in this study) (Calavita, 2014).

The categorization of IH program features in the U.S. is generally consistent across studies, regardless of whether the study is nationwide or focused on certain states. Most studies categorize IH programs to be either mandatory programs, which require developers to provide affordable housing, or voluntary programs, which incentivize the contribution of affordable housing (Calavita & Grimes, 1998; Dain, 2005; Jacobus,

Table 1. Summary of past studies focusing on inclusionary housing program features.

	Calavita and Grimes (1998)	Porter (2004)	Dain (2005)	Jacobus (2015)	Mukhija et al. (2015)	Thaden and Wang (2017)
Strength of requirement	✓	✓	✓	✓	✓	✓
Household income eligibility	✓	✓	✓	✓	✓	✓
Affordability term	✓	✓	✓	✓	✓	✓
Compliance options	✓	✓	✓	✓	✓	✓
Set-aside	✓	✓	✓	✓	✓	✓
Incentives		✓	✓	✓	✓	✓
Affected development	✓	✓	✓		✓	✓
Geographic targeting		✓		✓	✓	✓
Affordable unit requirements		✓		✓		
Tenure type		✓				✓
Managing agencies		✓				✓
Program incidence		✓				
Resale conditions			✓			
Study Coverage	California	Nationwide	Massachusetts	Nationwide	Nationwide	Nationwide

2015; Mukhija et al., 2015; Thaden & Wang, 2017), although strength of requirement can be more granular (Porter, 2004). Household income requirements, which vary widely from a single maximum income threshold to multiple income group targeting, help identify program beneficiaries (Calavita & Grimes, 1998; Dain, 2005; Jacobus, 2015; Mukhija et al., 2015; Porter, 2004; Thaden & Wang, 2017). Other commonly discussed program features include *affordability term*, the duration for which income-restricted units remain affordable; *compliance options*, whether the contribution of income-restricted units is through on-site development or alternative options, such as off-site construction, payment of in-lieu fees, and rehabilitation of existing affordable units; *set-aside requirement*, which is typically set as a percentage of the total units in the development that need to be created at affordable rents or prices for target income group; *incentives*, which include cost-offsets such as density bonuses, zoning and design flexibility, and expedited approvals; *affected development*, the development type and/or minimum size that triggers the IH program; and *geographic targeting*, whether the IH program applies to an entire jurisdiction or certain parts. (Calavita & Grimes, 1998; Dain, 2005; Jacobus, 2015; Mukhija et al., 2015; Porter, 2004; Thaden & Wang, 2017). Less commonly discussed program features include *income-restricted unit requirements*, including dispersal, appearance, and size (Jacobus, 2015; Porter, 2004); *tenure type*, such as rental or for-sale (Porter, 2004; Thaden & Wang, 2017); *managing agencies* (Porter, 2004; Thaden & Wang, 2017); *program incidence*, whether the IH program is written in zoning ordinance, master plan, or other documents (Porter, 2004); and *resale conditions*, or how resale prices are determined to assure that income-restricted units remain affordable to subsequent target income homebuyers (Dain, 2005) (Table 1).

Evaluation of IH program impact and performance is often tied to program characteristics (Non-Profit Housing Association of Northern California, 2007; Schwartz et al., 2012; Sturtevant, 2016; Williams et al., 2016). For example, Schwartz et al. (2012) associated inclusionary unit production and inclusiveness with features such as income requirement, tenure, mandatory status, affected developments, compliance options, incentives, affordability term, data tracking, and compliance monitoring. In California, high-producing IH programs were typically mandatory, covered entire jurisdictions, and had affordability term of 30 or more years (Non-Profit Housing

Association of Northern California, 2007). Sturtevant (2016) found that productive IH programs were mandatory, offered meaningful incentives to developers, were predictable, and offered a range of ways to comply with the programs. However, Williams et al. (2016) argued that successful programs should be more flexible for developers by being voluntary and applicable to small areas or specific housing types, as well as having short affordability terms and low set-asides.

In summary, adoption of IH programs is associated with local influences including market dynamics and political factors, the existence of regional influences, and state policy frameworks. While characteristics of IH programs are often discussed consistently and are believed to be tied to program impact, scholars disagree on what program types are most likely to be successful — in part because there is no agreed upon definition of success, and in part because these scholars have based their conclusions on specific regions or partial data sets. The next section describes methods used in this study to build a comprehensive dataset.

Research questions and methods

In this empirical analysis we answer the following research questions:

1. How many IH programs are there in the country, and what is their geographic spread?
2. What are the design features and regional variations of these programs?
3. What is the scale of production for these programs?

Definition of IH programs and study scope

In this study, an IH program is defined as a set of rules or a government initiative that encourages or requires the creation of affordable housing units or the payment of fees for affordable housing investments when new development occurs. This definition includes *traditional IH programs* that are either mandatory or voluntary in yielding affordable units on-site or off-site, or payments of in-lieu fees. It also includes *linkage/impact fee programs* that generate fees for the development of affordable housing from commercial development, residential development, or both. In essence, this IH definition captures the intent of the policy or program in one or more of the following ways: to increase affordable housing supply, to promote social and economic integration, and/or to incentivize any type of development as long as the underlying program results in an increase of the local affordable housing stock.

A policy or program is not considered an IH program in this study if it does not establish a maximum household income level to be served or does not specify the affordability term of income-restricted units. Also, a policy or program is excluded from the database if the inclusion of affordable housing or the payment of a fee for affordable housing is a result of project-by-project, ad-hoc negotiations with developers.

This study focuses on local IH programs and excludes state mandates such as the Density Bonus Law and inclusionary provisions of California Senate Bill 35 in California, Chapter 40B in Massachusetts, and state-mandated development fees on

Table 2. Summary of study scope.

	Included	Excluded
Overall	<ul style="list-style-type: none"> • Traditional IH programs and linkage/impact fee programs. • Mandatory and voluntary programs. 	<ul style="list-style-type: none"> • Policy/program that does not establish a maximum household income level. • Policy/program that does not specify the affordability term of the inclusionary units. • Policy/program with inclusionary units resulting from ad-hoc negotiations with developers.
California	<ul style="list-style-type: none"> • Locally adopted density bonus programs that have more stringent requirements than the state mandate. 	<ul style="list-style-type: none"> • The state's density bonus program. • Inclusionary provisions of California Senate Bill 35. • Locally adopted density bonus programs that have the same requirements as the state mandate.
Massachusetts New Jersey	<ul style="list-style-type: none"> • Chapter 40R. • Municipal-wide inclusionary zoning programs. • Residential development fee programs. • Locally adopted development fee programs on non-residential development that have more stringent requirements than the state mandate. 	<ul style="list-style-type: none"> • Chapter 40B. • State-mandated development fees on non-residential development. • Site-specific inclusionary zoning policies as a result of Mount Laurel/Fair Housing Act.
New York	<ul style="list-style-type: none"> • 421-a Tax Exemption program. 	

non-residential development in New Jersey. One exception is the state of New York's 421-a tax exemption program, which is a state program but only applies to New York City. State IH programs are excluded because, in theory, all non-exemptive developments in the state are subject to the state IH mandates, regardless of whether such state law is written in local ordinance. Also, it is almost impossible to comprehensively and accurately track unit/fee production resulting from the state IH mandates, especially considering that it is common for state IH mandates to overlay local IH programs (Goetz & Sakai, 2020). Also excluded from this study are site-specific inclusionary zoning policies in New Jersey, which regulate specific sites in the municipality to be zoned for housing development with an affordable percentage, either because of a Mount Laurel/Fair Housing Act compliance plan or otherwise.

On the other hand, local IH programs adopted because of state initiatives are included in this study. These IH programs include, for instance, local programs in Massachusetts adopted in compliance with Chapter 40R,¹ as well as municipal-wide IH programs and residential development fee programs adopted as part of the Council on Affordable Housing (COAH) process in New Jersey. The dataset also includes locally adopted programs with more stringent requirements than the state mandates — including density bonus programs in California and state-mandated development fees on non-residential development in New Jersey (Table 2).

Questionnaire design

The survey questionnaire was built on Thaden & Wang's (2017) study as well as input from state and regional IH experts. The IH survey questionnaire included two

main parts. The first part collected jurisdictional information, survey respondents' contact information, and the number of IH programs. The second part asked for program-specific information, including program features and program impact. In this part, there were questions specific for traditional IH programs, including program type, tenure type, minimum project size for the program to apply, set-aside, incentives, compliance options, income requirements, and affordability term. For linkage/impact fee programs, there were additional questions related to development type (residential and/or commercial development) and fee rate.

Data collection

Data collection included two approaches: ordinance review and online survey. The protocol varied in different parts of the country. The research team was comprised of four groups that led data collection efforts in California, Massachusetts, the Connecticut-New York-New Jersey region, and the rest of the country, respectively. The research group in California administered an online survey in all 540 cities and counties between November 2018 and October 2019. Concurrent to administration of the online survey, the group conducted ordinance review in all but 12 cities where ordinances could not be obtained. The research group in Massachusetts reviewed regulatory documents for all 351 municipalities in the second half of 2018. The review covered municipal bylaws, zoning bylaws, and regional and municipal housing plans. The group then administered an online survey in all 140 jurisdictions with IH programs identified through document review.

Between December 2018 and June 2019, the third research group reviewed zoning ordinances for all 1,489 municipalities in New York and all 169 municipalities in Connecticut. This process identified 36 municipalities in New York and 22 municipalities in Connecticut with at least one IH program. For New Jersey, the research group reviewed self-reported information from the COAH petitions (third round). The most updated information in these records range from December 2008 to August 2010; program information for 232 municipalities was obtained through these records. The research group then conducted an ordinance review (either in the Housing & Fair Share plan or zoning code) for the other 333 municipalities. At the end of this process, 222 municipalities in New Jersey were identified with at least one IH program, all of which were contacted for online survey.

For the rest of the country, the fourth research group started by updating the IH inventory obtained from Thaden & Wang's (2017) study. Between March and November 2018, the research group used multiple approaches — including literature review, keyword search in social media, and outreach to state and regional practitioners, policymakers, and scholars — to identify IH programs and points of contact. Subsequently, an ordinance review was conducted in early 2019 with program information collected for 218 IH programs in 152 jurisdictions. Then, an online survey was administered in all 152 jurisdictions through November 2019.

To be clear, this study did not employ any sampling technique for the online survey. Instead, the research team reached out to all 734 jurisdictions that had at least one IH program identified via ordinance review. One exception is California, where

Table 3. Summary of data collection results.

State/Region	Ordinance Review	Online Survey		
	# of Jurisdictions Reviewed / Total # of Jurisdictions in the State/Region	# of Jurisdictions with One or More IH Program	# of Survey Responses	Survey Response Rate
California	528 / 540	162	125	77%
Connecticut	169 / 169	22	21	95%
Massachusetts	351 / 351	140	136	97%
New Jersey	565 / 565	222	5	2%
New York	1,489 / 1,489	36	15	42%
Other areas	152 / 89,004	152	92	61%
Overall	3,254 / 92,118	734	394	54%

the group administered an online survey in all local jurisdictions. Once data was collected in all areas, the research team conducted extensive cross-validation for the combined dataset to reconcile discrepancies between information collected via ordinance review and the online survey.

This study has an overall survey response rate of 54%. Survey participation is exceptionally low in New Jersey. This is because the state's COAH has been embroiled in legal battles since 2010, despite it having been instrumental in local adoption of IH programs in New Jersey, causing a setback for the state's affordable housing agenda. As a result, data utilized in this analysis for New Jersey is primarily gathered through review of local zoning ordinances and other documents (Table 3).

Missing IH programs — especially newer programs and those in states without a full scan of local IH programs — is inevitable. IH programs in small-size municipalities and voluntary programs are particularly likely to have been missed, especially when they are not locally identified as 'inclusionary housing' but simply as a tax incentive or density bonus program.

Findings

Program distribution and market location

This study identifies a total of 1,019 IH programs in 734 local jurisdictions of 31 states and the District of Columbia. New Jersey, California, and Massachusetts comprise 74% of IH programs in the country. With 287 IH programs in 222 municipalities, New Jersey has the most IH programs and municipalities with IH programs. California ranks second in the number of jurisdictions with IH programs (162) and third in the number of IH programs (228). In Massachusetts, there are 140 towns (rank third) adopting a total of 236 IH programs (rank second). In addition, four states — New York, Washington, Florida, and Connecticut — have a substantial number of IH programs — together accounting for 13% of all IH programs in the country.

Of 1,019 IH programs, 685 (67%) are traditional IH programs and 334 (33%) are linkage/impact fee programs. States with a substantial number of traditional IH programs include Massachusetts (230), California (144), New Jersey (57), New York (42), Washington (33), and Florida (28). For linkage/impact fee programs, the majority

Table 4. Count of jurisdictions and inclusionary housing programs by state.

State/District	Count (%) of Jurisdictions with IH Program	Count (%) of IH Programs		
		Total	Traditional Programs	Linkage/Impact Fee Programs
New Jersey	222 (30.2%)	287 (28.2%)	57	230
California	162 (22.1%)	228 (22.4%)	144	84
Massachusetts	140 (19.1%)	236 (23.2%)	230	6
New York	36 (4.9%)	42 (4.1%)	42	0
Florida	23 (3.1%)	30 (2.9%)	28	2
Connecticut	22 (3%)	23 (2.3%)	22	1
New Hampshire	19 (2.6%)	19 (1.9%)	19	0
Washington	18 (2.5%)	33 (3.2%)	33	0
North Carolina	13 (1.8%)	15 (1.5%)	15	0
Colorado	12 (1.6%)	16 (1.6%)	12	4
Rhode Island	10 (1.4%)	10 (1%)	10	0
Maryland	9 (1.2%)	10 (1%)	10	0
Minnesota	7 (1%)	7 (0.7%)	5	2
Illinois	6 (0.8%)	7 (0.7%)	7	0
Virginia	5 (0.7%)	8 (0.8%)	2	0
Oregon	4 (0.5%)	8 (0.8%)	5	3
Pennsylvania	4 (0.5%)	4 (0.4%)	4	0
Delaware	2 (0.3%)	4 (0.4%)	4	0
Georgia	2 (0.3%)	4 (0.4%)	4	0
Hawaii	2 (0.3%)	2 (0.2%)	2	0
Montana	2 (0.3%)	2 (0.2%)	2	0
Utah	2 (0.3%)	2 (0.2%)	2	0
Vermont	2 (0.3%)	2 (0.2%)	7	1
Wyoming	2 (0.3%)	2 (0.2%)	2	0
Washington, D.C.	1 (0.1%)	2 (0.2%)	1	1
Idaho	1 (0.1%)	1 (0.1%)	1	0
Maine	1 (0.1%)	2 (0.2%)	2	0
Michigan	1 (0.1%)	1 (0.1%)	1	0
New Mexico	1 (0.1%)	1 (0.1%)	1	0
Ohio	1 (0.1%)	1 (0.1%)	1	0
Tennessee	1 (0.1%)	1 (0.1%)	1	0
Texas	1 (0.1%)	9 (0.9%)	9	0
Total	734	1,019	685	334

Note: One jurisdiction can have more than one inclusionary housing program.

($n = 230$, or 69% of all linkage/impact fee programs) are found in New Jersey (known as development fee programs in this state). California also has a large number of linkage/impact fee programs (84, or 25% of all linkage/impact fee programs). Other states either have few or no linkage/impact fee programs. Usually jurisdictions choose either a traditional IH program or a linkage/impact fee program, not both. Across the nation, only 14% of jurisdictions that have IH programs have adopted both a traditional IH program and a linkage/impact fee program. Most of the jurisdictions with both types of IH programs are in California or New Jersey (Table 4).

There are 103 jurisdictions with more than one traditional IH program, Common reasons for the existence of multiple traditional IH programs in one jurisdiction include: one program is mandatory and the other is voluntary; one program applies to for-sale developments only and the other applies to rental developments; and different programs apply to distinct geographic areas.

IH programs in general are adopted in stronger housing markets as measured by two indicators — median housing price and vacancy rate, both of which were derived from the latest 2018 American Community Survey five-year estimates. Z scores were used to standardize comparisons across the three different census geographies in the

Table 5. Comparison of housing market indicators between inclusionary housing jurisdictions and non-inclusionary jurisdictions.

	Median Home Price			Vacancy Rate		
	Nationwide	State w/ IH	Metro-Level	Nationwide	State w/ IH	Metro-Level
Mean	2.48	0.66	0.32	-0.43	-0.23	-0.08
Median	1.96	0.39	0.06	-0.67	-0.47	-0.34
Minimum	-0.74	-1.15	-1.31	-1.39	-1.39	-1.74
Maximum	15.38	10.02	6.04	3.91	4.76	5.81
	Mann-Whitney U Sig. Level (2-sided test)					
Place	***	***	***	***	***	***
County Sub-division	***	***	***	***	*	
County	***	***		**		

Notes: * $p < 0.1$; ** $p < 0.05$; *** $p < 0.01$; Washington, D.C., is excluded from the Mann-Whitney U test.

dataset — place, county sub-division, and county. When all jurisdictions without an IH program across the entire nation are chosen as the comparison group, jurisdictions with IH programs are located in substantially stronger housing markets, with high median home prices (z score value 1.96) and low vacancy rates (z score value -0.67). Positive z-score of median home price and negative z-score of vacancy rate mean jurisdictions with IH programs have a higher median home price and lower vacancy rate — indicating stronger local housing markets — than the comparison group. Further, Mann-Whitney U tests reveal statistically significant differences in both indicators across all three census geographies.

When the comparison group is limited to states with at least one IH program (the ‘state w/IH’ columns in Table 5), the associations between market conditions and IH adoption are weaker. For median home price, the difference is statistically significant across all three census geographies ($p < 0.01$). Whereas for vacancy rate, the difference is not statistically significant at county level. When the comparison group is further limited to core-based statistical areas with at least one IH program (the ‘metro-level’ columns in Table 5), the difference becomes marginal and is only statistically significant at place and county sub-division levels for median home price, and not statistically significant for vacancy rate.

Program characteristics

Traditional IH program

Overall, the majority of the programs are mandatory programs that apply to both for-sale and rental developments (444 out of 681 programs with an answer, or 65%). Voluntary programs and those applying to only one type of development are less common. IH programs offer a variety of incentives, with density bonuses being most common (382 out of 671, or 57%). On the other hand, 193 (29%) of programs, mostly mandatory programs, do not offer any incentives. In terms of compliance options, almost all IH programs (674 out of 679, or 99%) include the provision of on-site affordable housing units as the sole way or as one option among others for developers. Commonly offered alternative compliance options include paying in-lieu fees (332, or 49%) and building off-site affordable units (283, or 42%). As for affordable housing set-aside, 249 out of 652 programs (38%) reported having a requirement at or above 20% of housing units. The set-aside requirement varies in 233 IH programs

(37%). For the majority of IH programs (342 out of 550, or 62%), the minimum project size that triggers the IH requirement is set between two and 10 units. In terms of income requirement, the majority of the programs — 393 (61%) rental programs and 412 (64%) for-sale programs — use a single income targeting requirement by setting either a maximum income level or an income range. Typically, these programs (334, or 87% for rental and 304, or 75% for for-sale) set the maximum income of eligible households between 51% and 80% of area median income (AMI) — defined by the U.S. Department of Housing and Urban Development (HUD) as low-income households. Generally, rental developments provide deeper affordability than for-sale developments. Besides the single income targeting approach, 151 (24%) rental programs and 147 (23%) for-sale programs adopt a mixed-income level approach through which affordable units are allocated across multiple lower-income groups. And 148 (24%) rental programs and 140 (22%) for-sale programs adopt a multiple income targeting approach through which developers are offered different options — often tied to project size, incentives, or set-aside — to serve lower-income residents. For affordability term, most programs (93%) require inclusionary units remain affordable for at least 30 years.

In California, Massachusetts, and New Jersey, IH programs are shaped by state laws; hence, they reveal distinct patterns and diverge from the national trend in some ways. In California, a substantially higher share of programs are mandatory, choose to use a variety of alternative compliance options, employ a mixed-income targeting approach, and follow the state's minimum affordability period of 55 years under Density Bonus Law (hence the affordability term falls into the 30–99-year category). In Massachusetts, income targeting and affordability term requirements are typically determined by the state's Subsidized Housing Inventory standard; and IH programs are more likely not to offer any incentives. In New Jersey, following the state's Uniform Housing Affordability Controls guidelines, most programs are mandatory programs that apply to both tenures, set minimum project size between two and 10 units, and use uniform income and affordability term requirements (Table 6).

Linkage/impact fee program

There are 94 programs generating fees for the development of affordable housing from non-residential development types. The majority of programs use square foot as the unit measure for fee rate. The average fee rates range from \$5.01 per square foot for retail/service development to \$7.90 per square foot for office developments. Fee rates vary widely across programs. For 288 programs applying to residential developments, they employ one of two fee structures. One type is to charge by square foot of the new residential development. The average per square foot rate is \$14.22 for rental development, \$11.80 for single family for-sale, \$15.41 for multifamily for-sale, and \$14.28 for townhouse for-sale. Across programs, fee rates vary widely between \$0.05 and \$27 for rental and single-family for-sale developments, and between \$0.05 and \$51.75 for multifamily and townhouse for-sale developments. Another type of fee structure is based on housing unit. The average per unit rate is \$14,060 for rental development, \$7,994 for single family for-sale, \$6,637 for multifamily for-sale, and \$6,388 for townhouse for-sale. Across programs, fee rates vary widely between \$362 and \$37,962 (Table 7).

Table 6. Feature patterns for traditional inclusionary housing programs.

	Nationwide	CA	MA	NJ		
Total Traditional Program	685	144	230	57		
Program and Tenure Type						
Mandatory Program	481	116	165	54		
Rental Only	6	2	1	0		
For-Sale Only	31	16	3	0		
Rental and For-Sale	444	98	161	54		
Voluntary Program	195	24	65	1		
Rental Only	19	3	3	0		
For-Sale Only	5	0	1	0		
Rental and For-Sale	171	21	61	1		
Voluntary for Rental & Mandatory for For-Sale	5	4	0	0		
Incentive						
Density bonus	382	95	111	15		
Other zoning variances	159	51	46	3		
Fee reduction/waiver	113	47	2	0		
Expedited permitting	85	37	13	1		
Unit concessions	77	50	4	0		
Tax relief/abatement	38	2	3	0		
Direct subsidy/TIF	28	15	3	0		
Other	22	12	2	0		
None	193	16	105	38		
Compliance Option						
On-site units	674	143	227	56		
In-lieu fee	332	108	87	42		
Off-site units	283	96	81	22		
Donate land	145	80	35	0		
Rehab regulated units	88	26	20	16		
Renovate unregulated units	74	32	27	1		
Other	25	7	7	1		
Set-aside						
With any requirement at or above 20%	249/652	54/141	71/225	31/55		
Set-aside varies	233/636	54/135	81/217	13/53		
Development Size Threshold that Triggers the Policy						
2–10 units	342	81	127	31		
11 units or more	43	11	7	1		
Other measure	72	8	57	0		
None	93	14	19	0		
	Nationwide	CA	MA	NJ		
	Rent	For-Sale	Rent	For-Sale	Rental & For-Sale	Rental & For-Sale
Income Requirement						
Single Income Targeting	393	412	24	43	219	0
50% AMI or below	7	2	2	2	0	N/A
51–80% AMI	334	304	15	12	215	N/A
81–120% AMI	28	74	6	24	0	N/A
121–240% AMI	15	21	0	5	0	N/A
Other Measures	2	2	0	0	0	N/A
Mixed-Income Levels	151	147	67	63	3	53
Multiple Options	148	140	34	29	2	52
Affordability Term						
Less than 30 years	41	40	3	7	0	0
30–99 years	419	406	96	86	221	0
Life of building	27	11	2	3	0	0
In perpetuity	59	69	20	23	2	0
It varies	61	74	1	7	0	51

Program production

Through the online survey, a subset of 383 IH programs reported the number of affordable units created. This count represents 52% of programs that can produce

Table 7. Summary of fee rates (in dollar) for linkage/impact fee programs.

Development Type	Programs Applying to Commercial Development				
	Program Count	Average per SQFT	Median per SQFT	Min per SQFT	Max per SQFT
Office	59	7.90	4.50	0.00071	36.22
Industrial	52	5.58	2.52	0.00069	27.50
Retail/Service	58	5.01	4.71	0.00119	25.15
Hotel	50	5.59	4.27	0.05	21.08
R&D	45	7.69	4.42	0.05	36.22
Development Type	Programs Applying to Residential Development				
	Program Count	Average per SQFT	Median per SQFT	Min per SQFT	Max per SQFT
Rental development	24	14.22	13.75	0.05	27.00
For-sale: single family	23	11.80	9.87	0.05	27.00
For-sale: multifamily	23	15.41	11.00	0.05	51.75
For-sale: townhouse	17	14.28	10.82	0.05	51.75
		per unit	per unit	per unit	per unit
Rental development	14	14,060	5,700	362	37,962
For-sale: single family	11	7,994	5,008	362	23,000
For-sale: multifamily	11	6,637	5,008	658	22,000
For-sale: townhouse	12	6,388	5,004	658	20,000

affordable units directly, as opposed to programs collecting fees and using those fees to create affordable units. It includes 258 programs reporting at least one affordable unit (35%) and 125 programs reporting zero unit (17%). Notably, a substantially higher share of programs in Massachusetts reported having zero units than those with at least one unit (Table 8).

For the 258 IH programs that report at least one affordable unit, the average unit count is 426 and the median is 61 units. These programs report a total of 109,488 to 110,172 affordable units, including 34,401 to 31,586 for-sale units from 159 programs, and 70,101 to 70,600 rental units from 165 programs.² In addition to affordable units directly built through IH programs, survey respondents reported fees — in nominal terms — that are used for affordable housing development. Of 657 programs, 174 (26%) provided an answer.³ Of the 174 programs, 51 (29%) report zero dollar collected since adoption. For the 123 programs reporting at least one dollar of development fee, the total fee collected is \$1.76 – 1.78 billion. The average fees collected per program is \$12.7 million and the median is \$1.1 million.

Comparing unit production across states, 86 IH programs in states other than California, New Jersey, and Massachusetts account for over half the affordable units created in the entire country (66,979–67,283). Fifty-seven programs in California account for the second highest number of total affordable units (28,960–29,180) among the comparison groups. Between 8,882 and 9,042 affordable units have been produced by 84 programs in Massachusetts. Thirty-one programs in New Jersey have together created 4,667 affordable units as of 2010. Consistently, across all comparison groups, there are more rental affordable units created through IH programs than for-sale units.

On average, a jurisdiction creates 21 IH units a year, which is equivalent to 9% of the number of permitted housing units in one year. The percentage is higher in California (13%).⁴ Following past studies comparing productions between IH and the Low-Income Housing Tax Credit (LIHTC) program — the country's largest affordable

Table 8. Summary of inclusionary program production.

State /Region	Unit Type	Program count (%)	Program with at least one affordable unit (at least \$1)					Total Units	Program count (%)	Program count (%)
			Average	Median	Min	Max	with 0 affordable unit (\$0)		with unknown number of affordable unit (fee amount)	
CA	Rental	42 (30%)	494	188	10	3,165	20,667–20,817	10 (7%)	88 (63%)	
	For-Sale	46 (30%)	181	88	1	2,793	8,289–8,359	8 (5%)	99 (65%)	
	All	57 (30%)	510	189	1	4,003	28,960–29,180	6 (3%)	130 (67%)	
MA	Rental	54 (24%)	134	54	1	1,950	7,186–7,321	109 (48%)	63 (28%)	
	For-Sale	54 (24%)	32	8	1	649	1,696–1,721	107 (47%)	65 (29%)	
	All	84 (36%)	107	25	1	2,599	8,882–9,042	82 (35%)	67 (29%)	
NJ	All	31 (54%)	150	52	6	809	4,667	26 (46%)		
Other Areas	Rental	69 (29%)	614	77	1	10,123	42,248–42,462	40 (17%)	128 (54%)	
	For-Sale	59 (25%)	364	40	1	10,000	21,416–21,506	48 (20%)	130 (55%)	
	All	86 (33%)	781	80	1	15,000	66,979–67,283	37 (14%)	135 (53%)	
Nation-wide	Rental	165 (27%)	426	80	1	10,123	70,101–70,600	159 (26%)	279 (47%)	
	For-Sale	159 (26%)	198	19	1	10,000	31,401–31,586	163 (26%)	294 (48%)	
	All	258 (35%)	426	61	1	15,000	109,488–110,172	125 (17%)	358 (48%)	
	Fee	123 (19%)	\$	\$	\$ 800	\$ 224,	\$1,758,425,176	51 (7%)	483 (74%)	
			12,698,293	1,126,040		299,220	– 1,779,613,176			

Notes: 1. Percentages in this table represent the share of the underlying program count of all program counts in the same row, which include (1) program count with at least one affordable unit/at least \$1, (2) program count with zero affordable unit/\$0, and (3) program count with unknown number of affordable unit/fee amount. 2. The summation of rental program counts and for-sale program counts does not add to "All" because an IH program can apply to both rental and for-sale developments.

housing finance source (Freeman & Schuetz, 2017; Mukhija et al., 2015), this study finds that on average a jurisdiction produces as many IH units as LIHTC units (ratio = 1).⁵ Barring a small subset of jurisdictions in New Jersey (n = 9), on average these jurisdictions produce substantially more IH units than LIHTC units (ratio = 3.41). In other parts of the country the number of IH units is slightly fewer than LIHTC units (ratio = 0.84, 0.88 and 0.91 in California, Massachusetts, and areas other than California, Massachusetts, and New Jersey, respectively). When all jurisdictions that reported IH unit count are examined (n = 256, including those with zero IH unit and/or zero LIHTC unit), IH production is higher than LIHTC in 34% of jurisdictions, on par in 19% of jurisdictions, and lower in 47% of jurisdiction (Table 9).⁶

Conclusion

This study draws a national census of IH programs in the United States. Through a comprehensive data collection approach employed between 2018 and 2019, a total of 1,019 local IH programs are documented in 734 local jurisdictions of 31 states and the District of Columbia. The substantial number of IH programs demonstrates that inclusionary housing is a common policy tool that has been used by a number of local governments to address affordable housing shortages. In addition, the study finds that IH programs are located across a large spectrum of housing markets, although they tend to be more popular in stronger markets. This tendency, however, is sensitive to several factors and becomes less statistically significant when the comparison group is regional rather than national, when the local government is county not city, and when the market indicator is vacancy rate as opposed to median home price.

Table 9. Contextualizing inclusionary housing production at jurisdictional level.

	CA	MA	NJ	Other Areas	Nationwide
Average ratio of annual IH units to permitted housing units	0.13 (n = 32)	0.08 (n = 94)	N/A	0.08 (n = 70)	0.09 (n = 196)
Average ratio of IH units to LIHTC units	0.84 (n = 48)	0.88 (n = 73)	3.41 (n = 9)	0.91 (n = 58)	1.00 (n = 188)

Notes: 1. Permitted housing unit counts were derived from the U.S. Census Building Permits Survey dataset, available at: <https://www.census.gov/construction/bps/>. For this analysis, annual permitted housing unit counts were based on 2015–2019 five-year average. 2. LIHTC unit counts were derived from HUD’s LIHTC dataset, available at: <https://lihtc.huduser.gov/>. 3. For both comparisons, 20 counties with IH programs are excluded because it is not clear about the service areas of the IH programs. Also, four jurisdictions with IH programs adopted in or after 2017 (less than three years old) are excluded to avoid the effect of low productivity from new IH programs. For permitted unit comparison, another 17 jurisdictions are excluded because the ratio is larger than one, likely due to inaccurate survey data for permitted housing units (especially in small-size cities). For LIHTC comparison, another 68 jurisdictions are excluded because they don’t have any LIHTC units but have at least one IH unit (hence the ratio cannot be computed). 4. The number LIHTC units is under-reported in some jurisdictions because some properties don’t have unit counts. For New Jersey, only LIHTC units that were placed in service prior to 2011 are included in the comparisons because IH units are reported prior to this year. 5. If an IH program reports a range of units, the middle point of that range is used for this analysis.

California, New Jersey, and Massachusetts — where pro-inclusionary housing state laws largely spur program adoption — account for more than three-quarters of the IH programs. However, they contribute to less than half of the units produced in the subset of programs with known unit counts. A subset of 258 programs reported producing about 110,000 inclusionary units, and 123 programs have collected close to \$1.8 billion in fees for affordable housing development. Although the exact figure is unknown and difficult to estimate, the scale of entire production under IH programs should be significantly larger than what has been documented in this study if programs with unknown units and inclusionary units produced by state IH initiatives are all counted.

On average, a jurisdiction produces 21 IH units a year, which amounts to 9% of all permitted housing units created in the same jurisdiction. To put this into perspective, on average the affordable housing set-aside for IH programs is 16% of all housing units. Nine percent is quite high, considering the analysis does not count affordable units developed by in-lieu fees and considering permitted housing units can include residential developments that are exempt from IH programs. In addition, this study finds that more than half (53%) of jurisdictions produce as many or more IH units than units produced through the LIHTC program — the country’s largest rental housing subsidy program. While it is true that the overall number of units produced by the LIHTC program in the U.S. far outnumbers that produced by IH programs, this finding suggests that under certain circumstances and in certain jurisdictions — especially in smaller-size cities — more units were produced by IH programs than by LIHTC. This is understandable as tax credits are granted at the state level and are generally distributed throughout the state. The finding is meaningful as it suggests that IH programs can be a viable local affordable housing tool that supplements federal affordable housing policies.

In terms of program design, IH programs are most likely to be mandatory and apply to both rental and for-sale developments. By default, most IH programs require developers to build on-site affordable units. Most inclusionary units are targeted to households earning 50–120% of AMI; and rental units, rather than for-sale units, tend to serve lower-income households. Also, most units are required to remain affordable for at least 30 years. As an alternative to building on-site units, it is

common practice for IH programs to offer developers the option to pay in-lieu fees with rates varying widely across programs. The typical IH program design supports that, overall, IH programs in the U.S. are structured to meet the dual goals of increasing affordable housing supply and fostering mix-income communities.

This study shows that there are considerable variations in IH program design and outcomes across states. While state mandates are certainly helpful to wide adoption of local IH programs, programs are more productive if they are designed in ways that address local affordable housing needs. This study and the resulting comprehensive IH dataset provide potential to conduct more systematic and rigorous research at regional and national levels for examining associations between markets, political economies, and IH programs.

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Notes

1. Chapter 40R can be considered a state voluntary IH program, as it encourages, not requires, municipalities to create smart growth districts. It therefore makes sense to track municipalities that chose to create these districts as part of their zoning bylaws.
2. The range exists because survey respondents are allowed to enter a range if exact number is not available or cannot be easily retrieved.
3. These 657 programs include linkage/impact fee programs and traditional inclusionary housing programs with an in-lieu fee option.
4. The average annual IH unit count at jurisdictional level was calculated as the total number of IH units divided by the age of the underlying program. And the results were added up if a jurisdiction has more than one IH program.
5. The ratio of IH units to LIHTC units was calculated for each of 188 jurisdictions that reported IH unit count (including zero unit) and at least one LIHTC unit. Then the average of the ratio is reported in Table 8.
6. For this analysis, a jurisdiction falls under the “on par” category if in a given jurisdiction, the number of IH unit is within 10% of LIHTC unit count, or the difference in unit count between IH and LIHTC is 10 or fewer.

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