Toward a More Inclusive Boulder: Innovative Solutions To Affordable Housing Challenges

Notes on Affordable Housing

Professor Karen Chapple and Tessa Munekiyo
University of California at Berkeley

These notes were used for a presentation by Professor Karen Chapple at the 2008 Annual Dinner of PLAN-Boulder County, January 27, 2008.

JOBS-HOUSING LINKAGE FEES

In many metropolitan areas, commercial development and job growth often outpaces housing production, creating a jobs-housing imbalance. When employment increases more quickly than housing, there are not enough places for workers to live in proximity to their jobs. A jobs-housing imbalance can result in increased home prices and put a strain on the affordable housing stock as well as lead to longer commutes and increased traffic congestion.

A look at job growth and the number of residential building permits issued for Boulder County suggests that job growth has outpaced housing production in the last three years.

Job and Housing Growth, Boulder County, Colorado

	New Jobs[1]	Residential Building Permits Issued (Units)[2]
2004	1,254	1,372
2005	2,534	1,141
2006	2,547	746
TOTAL	6,335	3,259

The jobs-housing linkage fee is one policy tool designed to address this problem by linking commercial development with affordable housing production. Linkage fees are usually collected by the local agency that issues building permits and are assessed on a per square foot basis for commercial development.

The City of Boulder currently has a jobs-housing linkage fee in place in the form of a housing excise tax. The tax is assessed on all new development, both residential and commercial, and revenues are dedicated to the "Community Housing Assistance Plan," which assists in the provision of housing for households earning between fifteen percent and sixty percent of the area median income (AMI). Tax rates are assessed on a per square foot of floor area basis and are adjusted annually with the Consumer Price Index (CPI). The 2008 tax rate for new and annexing residential dwelling units is $0.225 per square foot of floor area while the rate for new, annexing, and expanded nonresidential development is $0.48 per square foot of floor area.[3]

Boulder has the opportunity to increase support for affordable housing while trying to balance job and housing growth by increasing the tax rate for nonresidential development. Many cities such as Boston and San Francisco have had success with jobs linkage fees at rates much higher than those assessed in Boulder. Boston's City Council passed legislation for a linkage fee in 1986 and in 2001, set the fee at $7.18 per square foot for commercial developments over 100,000

[1] U.S. Department of Labor, Bureau of Labor and Statistics. Quarterly Census of Employment and Wages. http://data.bls.gov/PDQ/outside.jsp?survey=en

[2] Annual New Privately-Owned Residential Building Permits, Boulder County, Colorado http://censtats.census.gov/cgi-bin/bldgprmt/bldgdisp.pl

[3] Boulder Revised Code, Chapter 3-9: Housing Excise Tax. http://www.colocode.com/boulder2/chapter3-9.htm

square feet. Developers have a seven to twelve year pay in period and revenue goes to the Neighborhood Housing Trust. In addition to the affordable housing fee, developers are also assessed $1.44 per square foot for job training that is deposited into the Neighborhood Jobs Trust. In total, large commercial developments must pay a fee of $8.62 per square foot for affordable housing and job training.[4] San Francisco's linkage fee, which generates a total revenue of approximately $18 million annually, ranges from $7.55 per square foot for research and development to $11.34 per square foot for commercial office spaces.[5]

Smaller municipalities also utilize linkage fees for affordable housing.

Linkage Fees for Northern California Jurisdictions[6]

Cupertino	Office & Industrial $2
Menlo Park	Ranges from $0.76 to $1.92
Palo Alto	Commercial & Industrial $4.03
Sunnyvale	Industrial & Office $7.14
Pleasanton	Commercial $0.50
Napa, County and City	Range from $0.20 to $1.40
Livermore	Range up to $0.81
Sacramento, County and City	Ranges from $0.27 to $0.99

[4] Policy Link. Commercial Linkage Strategies. http://www.policylink.org/EDTK/Linkage/action.html
[5] Non-Profit Housing Association of Northern California. Jobs-Housing Linkage Programs. http://www.nonprofithousing.org/actioncenter/toolbox/policy/jobshousinglinkage.pdf
[6] Ibid.

LIMITING SECOND HOMES

According to the 2006 National Association of Realtors Profile of Second-Home Owners, approximately 40% of home sales in 2005, or 3.3 million new and existing home sales, were second homes. Sixty-five percent of vacation-home owners say their investment is better than stocks as rental income can offset the cost of the investment.[7] As more wealthy individuals purchase second homes, the housing supply for local residents and workers is diminished and many are priced out of the area.

A direct restriction of second homes would likely withstand legal challenges as long as the basic substantive due process test can be satisfied. That is, the restriction must serve a public purpose and have a reasonable means. In addition, the restriction would need to be drafted to avoid equal protection challenges – the purpose of treating second homes differently than other homes is related to the purpose of the restriction. A key to drafting this legislation would be the definition of a second home.[8] There may be municipalities that have found a way to restrict second homes, but initial research has not come across any.

Another approach to addressing the affordable housing problem associated with second homes is to limit or ban vacation rental homes. Many second-home owners rent out their units as short-term rentals when they do not occupy them. In Santa Fe, New Mexico, an ordinance prohibiting short-term vacation rentals had been on the books for many years but never enforced. In August 2007, the city council passed a law that would legalize short-term rentals (with certain restrictions) in residential areas for a fee of $1000.[9]

Other local jurisdictions are taking measures to link second home development with affordable housing. In the United Kingdom, the North Yorkshire County Council authorized an additional Council Tax on second homes. The 'second homes' money is used to fund affordable housing development in the County.[10]

In addition to restrictions at the local level, individual developments may address the issue of second homes. In Breckenridge, Colorado, a resort community with neighborhoods dominated by rentals and second homeowners, affordability and homeownership for employees is a serious challenge. One developer worked with the Breckenridge Town Council to create a program that offers a "local price" if certain conditions are met. Eighty percent of units in the development are deed restricted for the "local price" and are eligible for homeowners who are individuals that work 30 hours per week in Summit County and reside in the house. Appreciation for deed-

---

[7] National Association of Realtors. "Field Guide to Short-Term Rental Restrictions." http://www.realtor.org/libweb.nsf/pages/fg325

[8] Fred Etzel.

[9] Home Away. "Case Study: Short-Term Rental Restrictions in Santa Fe, New Mexico." http://ownercommunity.homeaway.com/tip/Resources/Public_Pages/Tips/Home_Owner_Tips/Vacation_Rental_Bans/Case_Study:_Santa_Fe

[10] Yorkshire Dales County News. "Second home Council Tax funds affordable housing." http://www.daelnet.co.uk/countrynews/country_news_23052006_3.cfm

restricted homes is limited to 3% per year or the percentage increase in AMI, whichever is greater.[11]

[11] http://www.poplarhouse.com/community_deedRestriction.htm

PROMOTING SWEAT EQUITY

The sweat-equity model provides low-income families with an opportunity for homeownership at below-market rates by contributing time and effort toward the construction of their home and homes of others. In addition to affordable homeownership, the sweat equity model helps to create community as families work alongside their new neighbors to complete all the homes in the group.

The Self-Help Homeownership Opportunity Program (SHOP) is a competitive grant program administered by the U.S. Department of Housing and Urban Development. Grants are provided to national and regional nonprofits that assist low-income families in building their own homes through the sweat equity or self help model. Households earning less than 80 percent of AMI are eligible for the program and are required to invest at least 100 hours of work in the building of their home or the homes of others. The homes are sold at below-market rates. In FY 2006, Congress appropriated $20 million for SHOP. SHOP grantees can develop self-help housing themselves or act as intermediaries (making loans to local organizations that work with self-help home buyers)[12] SHOP funds can be used for land acquisition or infrastructure improvements but may not be used for actual construction or rehabilitation of units.

Eligible households must apply to the program through current grantees:

- **ACORN Housing Corporation** – Low and moderate-income households that contribute sweat equity buy homes at below market rate. The land remains in the ACORN Community Land Association.
- **Community Frameworks** – Acts as an intermediary, awarding loans in Washington, Oregon, Idaho, and Montana.
- **Habitat for Humanity International**
- **Housing Assistance Council** – Acts as an intermediary, awarding loans of up to $15,000 per unit. The loan is interest free and due to HAC when the loan is eligible to self-help housing participant. HAC's emphasis is on rural housing.
- **PPEP Microbusiness and Housing Development Corporation** – Is the lead agency for a regional constortium covering Arizona, Colorado, Hawaii, and New Mexico.

There are other local nonprofit organizations that utilize the self-help model for affordable housing.

- **Housing Resources of Western Colorado** – Targets families below 80% AMI. Requires 30 hrs/wk (at least 15 hrs from the homeowner; the remaining can be from friends and family). Down payment is made in the form of sweat equity.

---

[12] National Low-Income Housing Coalition. "Self-Help Homeownership Opportunity Program." http://www.nlihc.org/detail/article.cfm?article_id=2806&id=46

VALUE CAPTURE

Tax increment financing, or TIF, is a tool used by municipal governments for redevelopment and community improvement. TIF allows communities to capture future tax revenue increases resulting from public investment in a designated district. When a TIF district is created, a tax revenue base is determined based on the status quo before public investment. If public projects, such as infrastructure improvements, are successful, the surrounding property values rise, leading to an increase in the property tax revenue; this is the "tax increment."

TIFs, which are used in 49 states and in the District of Columbia, can be designated for affordable housing. If a community wants to use TIF funds for affordable housing, it is critical to require as a condition for approving the TIF district, that a minimum amount of revenue be dedicated to affordable housing.[13] In California, state law requires that at least 20 percent of TIF revenue generated in urban renewal areas be dedicated to affordable housing; some urban renewal areas have reserved more than 20 percent of revenue for housing.

Some states, including Massachusetts, Maine, and Minnesota, have special housing TIFs, in which the tax revenue is dedicated specifically to affordable housing. In Minnesota, there were 397 active housing TIF districts at the end of 2001, accounting for 18.3 percent of all TIF districts in the state.[14] There are ten Affordable Housing TIF Districts in Maine, with total revenues ranging from $150,190 to over $14 million in South Portland.[15]

In Colorado, the Urban Renewal Law (CRS 31-25-101 et seq) authorizes TIF districts for 25 years per project to fund bonds.[16]

---

[13] Center for Housing Policy. 2007. "Increasing the Availability of Affordable Housing: A Handbook of High-Impact State and Local Solutions." http://www.nhc.org/pdf/chp_hwf_analysis.pdf

[14] Minnesota House of Representatives, House Research. "Housing TIF Districts." http://www.house.leg.state.mn.us/hrd/issinfo/hsgdisttif.htm

[15] Maine State Housing Authority. "Maine Communities Using Affordable Housing Tax Increment Financing (AHTIF)." http://www.mainehousing.org/Documents/Brochures/Brochure-AHTIFsApproved.pdf

[16] Council of Development Finance Agencies. http://www.cdfa.net/cdfa/cdfaweb.nsf/fbaad5956b2928b086256efa005c5f78/8c81fb97ccab6fe38625714000829df6/$FILE/Statute%20Summary.pdf

MCMANSIONS

"In Pitkin County, Colo., home of Aspen, if a new home is more than 5,000 square feet, the builder must either provide onsite renewable energy (via something like solar panels) or pay a $5,000 fee to the Colorado Office of Resource Efficiency, which will use the money for renewable energy projects elsewhere. If the house is 10,000 square feet more, the fee goes up to $10,000 if no onsite renewable energy is provided. And if a home exceeds its property's allocated energy budget as determined by local codes -- due to a large spa, a heated driveway, etc. -- the homeowner must "buy" energy from the Renewable Energy Mitigation Program, up to $100,000." [17]

In Nantucket, which is experiencing an influx of oversized homes, the Nantucket Housing Office, a private nonprofit group, proposed a one-time "McMansion" tax of $8 per square foot of construction space exceeding 3,000 square feet.[18] The tax was never passed and a later bill which would have created a Housing Bank was also defeated. The Housing Bank bill would have assessed a one percent fee on sellers of property costing more than $2 million. The funds would be managed by a local, elected Housing Bank Commission and would be used for rental and affordable homeownership for residents earning less than 150 percent of AMI.[19]

In January 2007, Vermont democratic state representative Tony Klein proposed a bill that would impose fees for homes larger than 4,000 square feet. Owners would have to pay $1,000 for each 100 square feet above 4,000 square feet. The goal of the bill is to promote energy efficiency and discourage big homes.[20] The status of this bill is unknown.

Also see article on Boulder's plan to expand TDR's to McMansions. Also discussed later under TDRs.
http://www.time.com/time/nation/article/0,8599,1643151,00.html

---

17 http://realestate.msn.com/buying/articlenewhome.aspx?cp-documentid=418653

18 Fabrikant, Geraldine. "Old Nantucket Warily Meets New." *The New York Times*. June 5, 2005. http://www.nytimes.com/2005/06/05/national/class/NANTUCKET-FINAL.html?pagewanted=all

19 Lancaster, Mary. "Housing Bank Bill for the Vineyard is Defeated." *The Nantucket Independent*. http://www.nantucketindependent.com/news/2006/0802/Other_news/005.html

20 "McMansion Tax." WCAX TV News. January 30, 2007. http://www.wcax.com/global/story.asp?s=6012721&ClientType=Printable

PRESERVING MOBILE HOME PARKS

Manufactured home parks serve as a source of unsubsidized affordable housing for low-income households. While they are more commonly referred to as "mobile home" parks, modern manufactured housing is actually rather immobile and differs greatly from the trailer-like mobile homes of the 1930s-1950s. Today, manufactured homes are designed to stay in one place; they have temporary axels and wheels that are removed once the home is set. Owners usually sell the axels and wheels and add required anchoring and skirting, making the homes more of a permanent structure than a mobile home.[21]

Many residents of manufactured home parks are in the unique position of owning their home but renting the land they live on. With rising land values, deferred maintenance problems, and pressures to increase the local tax base, manufactured housing parks are at increasing for closure. The closure of these parks often means displacement for residents, loss of affordable housing, and large relocation expenses. While owners of traditional homes are fully compensated when new development forces them from their homes, manufactured housing park residents are not. In many cases, residents lose their homes because their manufactured home cannot be moved, moving costs, shortage of available lots, and/or parks barring homes over ten years old. Existing affordable housing resources are strained when manufactured home parks are closed.

Converting manufactured home parks into resident ownership is one approach to preserving the stock of affordable housing. In 1984, San Diego County implemented the Mobile Home Occupant Assistance Program (MOAP), which provided financial assistance to lower income households so they could their parks to resident ownership. Qualified families were given 30-year, 5 percent loans on which the maximum interest and principal payment is limited to three percent of the household income. In its first six years, the program provided assistance for eleven parks with a total of 2030 spaces.[22]

Another approach is to slow the process of park conversion. Sunnyvale, California became the first municipality to enact an ordinance protecting park residents from conversion in 1986. The ordinance required developers to conduct an impact assessment of the park closure and provide compensation to residents.[23] Twenty-one cities in Minnesota have enacted park closure ordinances, which require residents be compensated for the market value of their home if they do not relocate or for the full relocation costs if they move within a twenty-five mile radius.[24]

---

[21] All Parks Alliance for Change, 2007. "Park Closings Ordinances." http://www.allparksallianceforchange.org/files/Park%20Closing%20Ordinance%20Policy%20Report_0.pdf

[22] Wallis, Allan D. 1997. *Wheel Estate: The Rise and Decline of Mobile Homes.* JHU Press. Accessed from Googlebooks: http://books.google.com/books?id=idqWAKOeoREC&dq=preserving+mobile+home+parks

[23] Ibid.

[24] All Parks Alliance for Change, 2007. "Park Closings Ordinances." http://www.allparksallianceforchange.org/files/Park%20Closing%20Ordinance%20Policy%20Report_0.pdf

BUILDING ACCESSORY DWELLING UNITS

The development of accessory dwelling units, or ADUs, are a popular mechanism for creating low- and moderate-income housing for homeowners and renters. ADUs are smaller living units with separate kitchen, living, and bathroom facilities that are attached to or detached from a single-family residence. Attached units contained within a single-family home, also known as mother-in-law apartments, accessory units, or second units are the most common type of ADUs.

ADUs provide additional rental income for homeowners that can be used to help with the mortgage payment or upkeep of the property. At the same time, renters benefit from affordable rental housing in single-family neighborhoods. The promotion of ADUs create increases the affordable housing stock in existing neighborhoods with little or no public cost.[25] With the decline of federal funding for affordable housing, the promotion of ADUs is becoming an increasingly popular tool. In addition increasing affordable housing without government subsidies, ADUs tend to be better integrated into communities. Unlike other forms of affordable housing that may be concentrated in certain areas, ADUs are frequently dispersed without government intervention.

Municipalities across the country have rewritten their zoning codes in recent years to eliminate longtime bans on accessory units in single-family houses and to encourage new development of ADUs. In some neighborhoods, residents oppose ADUs, raising concerns about neighborhood character, traffic, and parking. In response to these types of concerns, towns and cities have implemented new rules regulating ADUs. Some ordinances limit ADUs to one-bedroom apartments, thereby limiting the number of tenants with school-age children, while others require that the owner live on the premise and off-street parking is provided.[26]

Several keys to success for ADU policies include:[27]

- Achievable standards, fast track processing for units meeting standards, and sensitivity to compatibility within existing neighborhoods.
- Develop specific performance standards dealing with issues such as minimum lot size, maximum unit size, parking standards, setback and height requirements.
- Limits on the maximum number of units within a neighborhood, requirements for owner occupancy, and high parking requirements may be necessary to ameliorate community concerns but may also deter construction of ADUs.
- Allowing ADUs without conditional use permits or other action requiring public hearing to ease the process of developing accessory units for homeowners.
- Provide financial or technical assistance to encourage ADU development and improve their affordability.
- Allow for legalizing and upgrading of existing units to conform with health and safety requirements.

---

[25] Municipal Research and Services Center of Washington, 1995. "Accessory Dwelling Units." http://www.mrsc.org/Publications/textadu.aspx#intro

[26] Janny Scott. 2006. The Apartment Atop the Garage is Back in Vogue. *The New York Times*, Dec. 2, 2006. http://www.nytimes.com/2006/12/02/nyregion/02attics.html?pagewanted=1&_r=1

[27] Municipal Research and Services Center of Washington, 1995. "Accessory Dwelling Units."

The City of Santa Cruz, California has been recognized on numerous occasions for its Accessory Dwelling Unit Development Program. The program aims to implement the development of well-designed ADUs while minimizing the impact of population growth by providing more rental housing in the city's core. Santa Cruz's program has three components, including a technical assistance program to assist homeowners in designing appropriate ADUs for their property, a wage subsidy and apprentice program, and an ADU loan program that offers loans of up to $100,000 through the Santa Cruz Community Credit Union.[28] The City has published ADU manuals and other helpful resources on its website.

[28] Santa Cruz City Housing and Community Development. "Accessory Dwelling Unit Development Program." http://www.ci.santa-cruz.ca.us/pl/hcd/ADU/adu.html

CONSERVATION EASEMENTS/TDRS

Transfer of Development Rights (TDR) Programs use the market to implement and pay for development density and location decisions. TDR programs allow landowners to sever the building (development) rights from a particular piece of property and sell them to landowners who want to increase the density of their development on another property. Local governments also purchase development rights in order to control price, design details, or restrict growth. TDR programs can be used to preserve open space, agriculture, historic buildings, or housing. These programs also make preservation more equitable and politically feasible because landowners are compensated for loss of rights to develop on their property.[29]

Boulder County already has a TDR program to promote the preservation of agricultural lands and open space. The County is proposing to expand its TDR program to promote a second goal of sustaining the rural character of unincorporated areas of the County. Boulder is experiencing a trend towards larger homes that compromise the rural character of the County. The proposed TDR program expansion would require that the non-rural character of large homes be offset by transfers of potential development rights from a different property.[30]

TDR programs can also be used to preserve affordable housing. Seattle created a TDR program that included an affordable housing component in 1985. As part of the Seattle downtown revitalization program, a system of sending and receiving areas were created based on specific uses such as affordable housing and historic landmarks. During the first twelve years of implementation, the City served as the sole purchaser of development rights. Approximately $4 million of development rights preserved 372 units of affordable housing and facilitated the restoration of two performing arts centers.[31] By 2002, the TDR program had created or preserved 559 units of affordable housing and the program was reconfigured to create another 900 units.[32]

---

[29] Hanly-Forde, Jason, et al. "Transfer of Development Rights Programs: Using the Market for Compensation and Preservation."
http://government.cce.cornell.edu/doc/html/Transfer%20of%20Development%20Rights%20Programs.htm#Definition

[30] Clarion Associates. "TDR Valuation Report for the Proposed Expansion of Boulder County, Colorado Transfer of Development Rights Program." November 2007.
http://www.co.boulder.co.us/lu/code_updates/expanded_tdr/pdf/BoulderCountyTDRReport112707.pdf

[31] Smart Growth/Smart Energy Toolkit. "Transfer of Development Rights (TDR) Case Study: Seattle, WA."
http://www.mass.gov/envir/smart_growth_toolkit/pages/CS-tdr-seattle.html

[32] Hanly-Forde, Jason, et al. "Transfer of Development Rights Programs: Using the Market for Compensation and Preservation."

DENSITY BONUSES

Inclusionary zoning ordinances frequently offer cost offsets to developers to achieve a double bottom line—affordable housing and a reasonable return for the developer. Cost offsets help to ensure minimum profitability, which is necessary for housing, both market rate and affordable, to actually be built. Currently Boulder's Inclusionary Zoning Ordinance (Chapter 9-13) does not include incentives or offsets for developers.[33]

Jurisdictions offer a variety of cost offsets or incentives to developers including fee waivers or reductions, fee deferrals, expedited permitting, parking requirement reductions, unit size reduction, and design flexibility. Perhaps the most frequently used offset, however, is the density bonus, which allows developers to build at a greater density than the property's zoning permits. Density bonuses allow developers to build additional market rate units without having to acquire more land.

In Montgomery County, Maryland, the Moderately Priced Dwelling Unit (MPDU) ordinance, the nation's first inclusionary zoning laws and one of the most successful, requires 15 percent of units in new housing developments of 50 units to be affordable. In exchange, developers can receive a density bonus of up to 22 percent.[34]

In many jurisdictions, the amount of the density bonus is equivalent to the required affordable set-aside percentage. In Santa Fe, California, where the set aside varies from 11 percent to 16 percent depending on the character of market-rate units, the density bonus is matched accordingly.[35] If Boulder were to use this approach, the density bonus for developers would be at least twenty percent for developments of five or more units to match the set-aside requirement.

In addition to encouraging developers to build housing, density bonuses may have other positive planning impacts. They often help to reduce sprawl and create residential neighborhoods with a variety types of housing by enabling developers to build more densely than would be allowed in single-family zones.[36]

---

[33] City of Boulder. "Inclusionary Zoning." Adopted July 12, 2006. http://www.bouldercolorado.gov/files/PDS/New%20LUC/Training%20Copies/9_13_tra.pdf

[34] Rusk, David. "Inside Game/Outside Game: The Emerging Anti-Sprawl Coalition." *New Century Housing* 1(2) October 2000. [Inclusionary Zoning: A Viable Solution to the Affordable Housing Crisis?] http://www.nhc.org/pdf/pub_nc_10_00.pdf

[35] Policy Link. "Inclusionary Zoning." http://www.policylink.org/EDTK/IZ/How.html

[36] Burchell, Robert and Galley, Catherine. "Introduction and Definitions." *New Century Housing* 1(2) October 2000. [Inclusionary Zoning: A Viable Solution to the Affordable Housing Crisis?] http://www.nhc.org/pdf/pub_nc_10_00.pdf

PERMIT STREAMLINING

For developers, time is money. The longer it takes to get projects approved and completed, the longer the developer's capital will be tied up, and the higher their soft costs. A study of housing prices in 45 central cities found a strong correlation between the cost of homes and the length of the permitting process.[37] Municipalities can streamline their zoning and permitting approvals to reduce the cost of new housing.

Some strategies for streamlining the overall permitting process include:[38]

- Streamlining time-consuming elements. For example, allowing a neighborhood environmental impact statement to satisfy the environmental requirements rather than necessitating individual, site-by-site assessments.
- Revising zoning rules to minimize the need for individual variances.
- Shortening the length of time for approving or rejecting proposals for variances and building permits. One way to accelerate the process is to deem proposals automatically approved if not acted upon within a certain amount of time.
- Ensuring consistent standards are used in all aspects of the approvals process.

Some jurisdictions offer a special expedited review process for affordable housing. In Austin, Texas, the city's S.M.A.R.T. Housing Initiative utilizes expedited reviews and fee waivers to encourage the development of affordable housing. The program, which promotes safe, mixed-income, accessible, reasonably priced, and transit-oriented housing, provides projects meeting the S.M.A.R.T. certification requirements with an expedited review that averages about half the time of conventional projects. Certified projects may also receive waivers of certain application, review, and inspection fees. The savings associated with the S.M.A.R.T. program are approximately $600 per multifamily unit and $2,000 for single-family homes.[39]

Massachusetts has a state-wide requirement for streamlined the approval process for developments which include affordable housing. Under Chapter 40B, special expedited and flexible permitting rules apply to developments in which at least 20 to 25 percent of the units include long-term affordability restrictions.[40]

---

[37] Center for Housing Policy. 2007. "Increasing the Availability of Affordable Housing: A Handbook of High-Impact State and Local Solutions." http://www.nhc.org/pdf/chp_hwf_analysis.pdf
[38] Ibid.
[39] Ibid.
[40] Ibid.

AFFORDABLE HOUSING TAXES

Some jurisdictions have imposed taxes specifically to fund affordable housing. Often, these taxes come in the form of real estate transfer taxes, which are usually imposed at the recordation of transfer of documents.[41]

Real estate transfer taxes (RETTs), also known as real property transfer taxes, are used at the state, county, and local level. While RETTs are most often used for general revenue, they can be used for specific purposes such as affordable housing development. RETTs can serve as a dedicated source of funding for affordable housing and other equitable development programs that would be fairly predictable and not dependent on annual budgeting processes. Because RETTs are often based on sale prices at the time property is sold, these taxes can be a powerful form of value recapture when used in neighborhoods receiving an influx of investment. RETTs also discourage speculation, which would stabilize rents, home and apartment prices, and property taxes.[42]

Many states, counties, and local municipalities already have established RETTs. These taxes may be increased or redirected to support affordable housing. For example, some or all of the revenue from RETTs may be dedicated to housing trust funds. In Pennsylvania, the state passed an Optional County Affordable Housing Funds Act, which authorizes counties to increase their tax rate for real estate transfers. Eight-five percent of the funds raised from the rate increase must be set aside for affordable housing.[43]

Twelve Colorado municipalities have real estate transfer taxes, several of which have earmarked the revenue for dedicated purposes. However, as of December 31, 1992 new or increased transfer taxes on real property are prohibited under the Colorado Constitution (Article X, Section 20 (8)(a)).[44]

Other local tax revenue may be set aside for affordable housing development. The City of St. Louis, Missouri a local use tax (authorized by state law and approved by city voters), reserving a substantial portion of the revenue for the development and preservation of affordable housing. A city ordinance requires that the first $10 million in revenue be shared between the Affordable Housing Trust Fund and Health Care Trust Fund. Additional revenue is used for the demolition of derelict buildings, as well as affordable housing production and preservation. New Orleans has devoted mill property tax revenue to a Neighborhood Housing Improvement Fund that

---

[41] Iglesias, Tim and Lentel, Rochelle E. *The Legal Guide to Affordable Housing Development*. American Bar Association, 2006.
http://books.google.com/books?id=vehx9wtEbfQC&printsec=frontcover&vq=affordable+housing+tax#PPR3,M1

[42] Policy Link. "Real Estate Transfer Taxes." http://www.policylink.org/EDTK/RETT/Why.html

[43] Iglesias, Tim and Lentel, Rochelle E. *The Legal Guide to Affordable Housing Development*. American Bar Association, 2006.

[44] Colorado General Assembly. *Tax Handbook: State and Local Taxes in Colorado*.
http://www.state.co.us/gov_dir/leg_dir/lcsstaff/research/TaxHdBkSec04.htm#Real%20Estate%20Transfer%20Tax

assists with homeownership, elimination of blight, neighborhood stability, and affordable housing.[45]

Many local taxes imposed for affordable housing are based on specific state authorization. Boulder would need to work under Colorado's tax laws.

---

[45] Iglesias, Tim and Lentel, Rochelle E. *The Legal Guide to Affordable Housing Development*. American Bar Association, 2006.
http://books.google.com/books?id=vehx9wtEbfQC&printsec=frontcover&vq=affordable+housing+tax#PPR3,M1

LIMITED EQUITY MODELS

Limited equity (also known as shared equity) homeownership provides opportunities for low- and moderate-income families to become homeowners. In return for more affordable home prices, owners of limited equity units may not resell their homes for whatever they can get in the market. The price they may sell their house for and the appreciation they realize, ensuring that the homes made affordable through public financing or private charity will remain affordable in the future. While limited equity models prevent households from realizing the full increase in a home's value, they still offer many benefits of homeownership.[46]

While there are numerous limited equity homeownership models, many are based on three models: deed restricted homes, community land trusts, and limited equity cooperatives.

Deed restricted homes cover a wide range of housing types including single-family detached homes, townhouses, and condominiums. Housing is owner-occupied and are sold and resold for prices that remain affordable to a targeted group of low- or moderate-income homebuyers. Ownership for the land and building may be held exclusively by the homeowner or part of the ownership interest may be held in common by many homeowners. Hundred of jurisdictions across the country use discretionary funds, zoning mandates, and regulatory incentives to create deed-restricted, owner-occupied housing. While there is no way of knowing how many deed-restricted units exist, one estimate is in the range of 100,000 to 300,000 units nationwide.[47]

The City of Boulder has been promoting affordable, deed-restricted housing for twenty years through a succession of growth management and inclusionary zoning ordinances. The HomeWorks program covers the affordable homeownership units created under the city's 2000 inclusionary zoning ordinance. Every HomeWorks unit has a "Permanently Affordable Housing Covenant," requiring homeowners occupy the unit as their primary residence and sets forth resale restrictions. As of December 2005, the City of Boulder was overseeing 470 units of permanently affordable, deed-restricted housing, with approximately 50 units being added annually.[48]

Community land trusts (CLTs) offer owners nearly the same rights as deed restricted homes, but owners lease rather than own the land underlying their home. Resale restrictions are imposed for CLT homes, but instead of being mandated by deed, the contract is with the CLT. In this model, a nonprofit, community-based corporation owns the land while the homeowner holds the title to the house. Parcels of land are leased, often for ninety-nine years, giving homeowners exclusive rights to the land their home occupies. As of May 1, 2006, there were 162 CLTs with real estate holdings, 29 CLTs which had not yet acquired property, and 15 CLTs under active development.[49]

---

[46] Davis, John Emmeus. "Shared Equity Homeownership: The Changing Landscape of Resale-Restricted, Owner-Occupied Housing." National Housing Institute. http://www.nhi.org/pdf/SharedEquityHome.pdf

[47] Ibid.

[48] Ibid.

[49] Ibid.

Limited equity cooperatives (LECs) are a form of cooperative housing in which homeowners are allowed a modest gain in equity between the initial purchase and resale. In cooperative models, a state chartered corporation whose shareholders are exclusively drawn from the occupants of the building owns the land and buildings. In addition to owning shares of the corporation, homeowners have a proprietary lease for the exclusive use of their house or apartment. There are currently 425,000 limited equity cooperative units in the United States.[50]

New York City has had success with developing LEC housing units under various programs over the last fifty years. Most recently, the Tenant Interim Lease (TIL) program, started in 1978, has assisted organized tenant associations in City-owned buildings to develop economically self-sufficient low-income cooperatives. Currently, there are more than 1,300 LECs in New York City comprising tens of thousands of units.[51]

The Boulder Housing Coalition is working to develop LECs for people in Boulder County.[52]

---

[50] Ibid.

[51] Policy Link. "Limited Equity Housing Cooperatives." http://www.policylink.org/EDTK/LEHC/action.html

[52] http://www.boulderhousingcoalition.org/about_mission.html