



STRATEGY Public Land

OVERVIEW

Public land policies make government-owned land available at reduced or no cost for affordable or mixed-income housing. They can be a valuable way to help address local affordability needs, particularly in areas with high land costs.

Because localities often own land in myriad locations throughout a jurisdiction, public land redevelopment can be a helpful strategy for siting affordable housing in dispersed, opportunity-connected settings.

HOW IT WORKS

Across the country, local jurisdictions are taking a broad view of potential opportunities for using public land for affordable housing, including:

- the development of new public facilities such as community centers, libraries, fire stations, schools and police stations;
- underutilized public parking lots;
- sites that host no-longer needed public facilities; and
- publicly owned vacant land.

Cities and urbanized suburbs are increasingly home to high land costs, particularly in desirable, accessible neighborhoods. With land scarce, housing developers face tight competition from other residential developers, as well as from retail and office builders. A limited supply of land drives up the cost of housing development. Free or below-market land offered by the local government can be an effective way to subsidize the affordability gap.

Land costs can be a significant share of development costs for developers. For example, a recent study of the Washington, D.C., area by NHC's Center for Housing Policy, in partnership with the Urban Land Institute, estimates that eliminating land costs from development can cover one-seventh to one-third of the affordability gap for affordable units serving households earning approximately 60 percent of area median income (AMI), depending on the site's local land market.

A policy of allocating public land for mixed-income or 100 percent affordable housing can be a valuable way to reduce development costs, meet the housing needs of lower-income residents and increase development opportunities for affordable housing in mixed-income settings, with less need for direct public subsidy.

WHERE IT WORKS

A strategy of using publicly owned land for affordable housing will generally have the most impact in hot housing markets and sought-after neighborhoods with high land costs, where the financial value of discounted land is greatest for developers of mixed-income or 100 percent affordable housing. Making publicly owned land available for affordable housing in these settings could also provide development opportunities that affordable housing and mixed-income developers would be otherwise unable to acquire. Down markets provide an ideal opportunity for localities to acquire land to be used for future redevelopment.

POLICY AND PROGRAM TOOLS

Cross-Agency Coordination

In most communities, publicly owned land is controlled by numerous separate agencies, such as school boards, hospital boards, fire and police departments, and departments of transportation. A formal structure, such as an individual agency or interagency taskforce assigned to this task, can facilitate the identification of sites that have development potential, create a unified list of these parcels and improve public and private awareness of these hidden assets. Another approach that can facilitate the identification of sites with development potential is for a single municipal agency to assume ownership of all public land under the jurisdiction of the municipality.

Because few agencies like to give up land they think they might need in the future or go through the headache of new construction over or next to existing buildings, strong support from the jurisdiction's leadership as well as tangible incentives for the agencies may be needed to ensure an effective, interagency process, and especially to consolidate public holdings under a single office.

CASE STUDIES

New Housing Marketplace (New York City)

As part of the city's 10-year New Housing Marketplace Plan, created in 2003, the city assessed the potential of all underutilized, publicly owned sites to incorporate affordable homes on the premises. The city's Department of Housing Preservation and Development worked with a wide range of city and state agencies to acquire underutilized and surplus sites for affordable housing development. These sites include a historic public school in East Harlem and other Department of Education properties, underutilized parking lots owned by the Department of Transportation, a former hospital on Staten Island and surplus land at a Brooklyn psychiatric hospital.

For More Info:

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Surplus City Property Ordinance (San Francisco)

In 2002, the City of San Francisco amended its Surplus City Property Ordinance to require the transfer of underutilized or surplus property to the Mayor's Office of Housing for the development of affordable housing, particularly housing for the homeless. Examples of agencies subject to the policy include public works, public health, libraries and parks and recreation.

Properties that are suitable for housing development are to be sold or leased to a nonprofit for the development of affordable housing. Properties that are not suitable for housing development are sold in order to generate financing for affordable housing.

The ordinance has led to the creation of 150 affordable homes as of 2015, including 111 apartments for formerly homeless families and veterans. City staff is now leading the adoption of a broader Public Sites Development Framework to increase the supply of affordable homes on publicly owned land. Some of the ideas being considered include expanding efforts on enterprise agency and school property and allowing mixed-income housing on public land to improve the potential for cross-subsidizing affordable units with a market rate component.

One of the limitations of the San Francisco ordinance is that it places the responsibility for determining which properties are underutilized or surplus with each individual city department and does not audit departments or provide incentives for turning over property for use as affordable housing. Additionally, only two of the 15 sites donated to the Mayor's Office of Housing to date have been suitable for housing development.

For More Info:

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Prioritizing Publicly Owned Land for Affordable Housing

Since publicly owned land may be sold or transferred for any number of purposes, communities that wish to use publicly owned land for affordable housing development will need to clearly articulate that as a priority. Local ordinances can authorize and require the use of suitable public land for affordable homes, or at least establish the inclusion of affordable homes as a default expectation, subject to review.

One approach used by several states and local legislators is to adopt a public land disposition policy that offers publicly owned land first to affordable housing developers (whether for sale or lease). There are limitations of this approach, however. First, it does not ensure that publicly owned sites are protected as development opportunities for affordable housing at times when the development community is not ready to build affordable housing at an offered site. And second, it does not necessarily lead to the provision of public land at a discounted price. However, a right-of-first-refusal policy can still be helpful in facilitating access to publicly owned land for affordable housing development.

CASE STUDIES

Disposition of District Land for Affordable Housing Amendment Act (Washington, D.C.)

Washington, D.C.'s Disposition of District Land for Affordable Housing Amendment Act of 2014 (PDF) requires that all new multifamily residential developments on city-owned surplus land include at least 20 to 30 percent affordable housing. The exact level of affordability depends on the site's location; the percentage rises to 30 percent for sites within a half-mile of a Metrorail station, within one-quarter mile of a streetcar line or within one-quarter mile of a Priority Corridor Network Metrobus Route.

- The law allows for property to be transferred at less than the appraised value, and the city may provide additional subsidies to ensure that affordability requirements are met.
- The mayor may waive or reduce the affordability requirements as necessary, but only under certain circumstances, such as the appraised value of the site being insufficient to support affordable housing in light of all other available sources of public funding for supporting the affordable housing component, or the disposition of the property enabling the financing of a "significant public facility."

Half of for-sale affordable homes must be affordable to households earning less than 50 percent of area median income (AMI) and half to households earning up to 80 percent of AMI. One-quarter of the rental affordable homes must be affordable for households at 30 percent of AMI, and three-quarters for households at 50 percent of AMI.

For More Info:

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Prioritizing Public Land in Montgomery County (Md.)

Since the late 1980s, Montgomery County has developed a comprehensive county land inventory and facilitated mixed-income housing on multiple county land holdings.

To maximize its opportunities for using public land to help address local affordable housing needs, the County Executive and the County Council have endorsed a strategy in which, whenever possible, affordable housing will be included in the development of county land. All capital improvement projects or county agency plans to redevelop or dispose of county-owned land are required to assess the potential for affordable housing as part of the site's redevelopment and to present this analysis to the County Council. (A similar assessment is required of the potential for child care facilities.)

Additionally, the County Council has passed legislation that expresses a preference for at least 30 percent affordable housing on public land. Proposals from county agencies for the redevelopment of county land that would involve less than 30 percent affordable housing are subject to greater scrutiny from the County Council.

Lastly, most county-owned land is owned by a single agency: the Department of General Services. A chief exception is school district property. Single ownership has aided in the compilation of a comprehensive inventory of county-owned land and ensured better coordination among agencies in its development.

For More Info:

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Surplus Property Program for Affordable Housing (King County, Wash.)

King County's Ordinance 12394, approved in 1996, states that any surplus parcels that are suitable for housing should be sold or leased for the development of affordable housing. Each year, the surplus property list is updated, and suitable properties are offered for development as affordable homes. Factors considered in determining suitability of public sites include topography, zoning and availability of utilities. In its first examination in 1997, King County found that 52 out of 750 surplus county-owned parcels had housing development potential. By the beginning of 2007, the ordinance had generated 400 new affordable housing units, including 170 units in the Greenbrier Heights development in Woodinville.

For More Info:

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Streamlined Public Land Disposition

Standard procedures for selling or leasing publicly owned land can involve lengthy delays and inflexible requirements for sale to the highest bidder without regard to the planned land use. While the public has an interest in getting the maximum value for publicly owned assets, and ensuring oversight and accountability, these procedures can increase the cost and hinder the goal of promoting the development of affordable housing.

To facilitate more efficient affordable housing development on public land, land disposition procedures can be amended to acknowledge some legitimate public purposes for below-market sales, and to authorize below-market sales specifically for affordable housing. Additionally, some communities have established clear, expedited procedures for the disposition of publicly owned land for affordable homes to increase the predictability and speed of this process.

CASE STUDY

Surplus City Property Ordinance (San Francisco)

San Francisco's Surplus City Property Ordinance waives the city's standard requirement that properties must be sold for no less than 100 percent of fair market value. When properties will be transferred for the development of affordable housing or the provision of on-site homeless services, the ordinance allows the transfer to take place for below market value or at no cost.

For More Info:

Teresa Yanga, San Francisco Mayor's Office of Housing and Community Development
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RESOURCES

Research and WebTools

- Public Land & Affordable Housing in the Washington, D.C. Region: Best Practices and Recommendations (NHCs' Center for Housing Policy, 2015)
- "Public Land and Affordable Housing: Lessons from the D.C. Region" (Robert Hickey, National Housing Conference, Presentation, June 9, 2015)
- Leveraging Public Land for Affordable Housing in Northern Virginia: A Primer (Northern Virginia Affordable Housing Alliance, 2014)
- Public Land for Public Good: Making the Most of City Land to Meet Affordable Housing Needs (Coalition for Smarter Growth, 2012)
- Developing Affordable Housing on Public Land: A Guide for Massachusetts Communities (Massachusetts Housing Partnership, 2005)
- Public/Private Partnerships To Create Affordable Housing: The Hopland Road Yard Case Study (County Surplus Land) (County of Mendocino, Calif.)

Organizations

- **Arlington Partnership for Affordable Housing.** A developer of affordable housing in Arlington County, Virginia that built Arlington Mill Residences, an affordable housing property co-located with a new community center.
- **Coalition for Smarter Growth.** A regional advocacy organization in the Washington, D.C. metro area with expertise in public land and other land use policies that help create walkable, inclusive and transit-oriented communities. Closely involved in Washington, D.C.'s 2014 adoption of affordability requirements for city-owned surplus land.
- **Massachusetts Housing Partnership.** A statewide public/nonprofit affordable housing organization that works in concert with the Governor and the state Department of Housing and Community Development to help localities increase the supply of affordable housing in Massachusetts. Produced a guidebook for local governmental staff on using public land for affordable housing.
- **Non-Profit Housing Association of Northern California.** A regional housing advocacy organization working at the local and state level to pass legislation that increases the use of surplus land for affordable housing as part of its "Public Land for Public Good" campaign.
- **Northern Virginia Affordable Housing Alliance.** A regional nonprofit organization working to create successful communities through affordable housing education and advocacy. Recently authored a primer on leveraging public land for affordable housing.