Beyond the Regulatory Period: Keeping Units Affordable for Those Who Really Need Them

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Introduction

Housing policy has a way of exposing the social and economic injustices that exist in society in way that few other public policies can. Historically, it has perpetuated much of the racial and cultural prejudices and injustices that have permeated the fabric of this country, and to some extent, still does. Public housing projects like Pruitt-Igoe, which housed almost entirely low-income black residents were defunded and eventually blown up, while other largely white projects were not, and slumlords still take advantage of the immigrant status of many residents of Los Angeles to keep from making much needed repairs and improvements to their tenant's homes. However, housing policy can also be used as a tool to disrupt these injustices, showing those who are marginalized that they too have a right to the city, and to safe, habitable homes. As I really delve into the data I have collected and comb through the works of some of the foremost thinkers on housing policy, and reports carried out by numerous reputable institutions, I hope to inform the way that Los Angeles proceeds as it deals with both the causes and effects of the

The extreme unaffordability of the rental market has partially to do with an increasing divergence between stagnating wages and rising rents which has persisted in California, and specifically Los Angeles; the average worker now needs

the city continues to soar, profit-focused developers and investors are presented with more lucrative opportunities than the continued operation of their affordable units. Others, whom don't have the same financial backing, see higher and higher operational and maintenance expenses over the lives of their projects, forcing them to choose between leaving their projects in disrepair or selling them, as the restricted rents are not generating the necessary cash flow for the developer to continue operating the property. As such, putting in place mechanisms to preserve the units that are currently serving lower income populations in Los Angeles is crucially important, not only because preservation is "generally cheaper than new construction, prevents displacement, and takes advantage of existing land use patterns" (Kinney, 2016), but also because the net gain in units is limited when units are consistently removed from the market.

Nonprofit developers, community development corporations (CDC's), and other nonprofit entities have attempted to address the need for affordable housing. Large nonprofit developers and CDC's have been responsible for the construction of over 1.6 million units of housing in the United States, with Housing Partnership Network (HPN) members, a group of 98 of the most prolific nonprofit developers, as well as limited equity coops, community land trusts, Habitat for Humanity, and other nonprofit organizations responsible for the rest of the more than 2.3 million total units built by nonprofit entities since the first "philanthropic" housing developers were founded and began building in the early 1900's (Bratt, 2012). Although the majority of CDC's have developed a relatively small number of units since their founding, with more than half having built fewer than 100 multi-family units in total, the number of CDC's in existence has increased 20 fold since the 1970s (Bratt, 2012). And from 1990-2010, nonprofit developers had a much higher rate of construction of new affordable units than for-profit developer members of the National Association of Home Builders (Mayer & Temkin, 2007).

They brought to market an average of 124 units annually to the 57 units developed by for-profit builders whose niche was outside of affordable housing (Mayer & Temkin, 2007). Despite small numbers of affordable housing units being developed by for-profit members of the National Association of Home Builders, 75-80% of units currently being brought to market are by for-profit affordable and market-rate housing developers, not nonprofits (Chung, 2004).

There is extensive debate carried out among developers, housing experts, and local governments as to what the best strategies are for bringing more affordable housing units to market, and keeping them affordable. Some lend their trust to the power of the market to correctly allocate resources to bring units to market while others believe that more intense, controversial, measures should be experimented with. Of the numerous potential strategies, efforts to expand the number of limited equity coops and community land trusts has curried favor among many grassroots organizers who want to remove units from the speculative market, while some have begun to piece together support to resurrect public housing from its unfortunate reputation in the United States. Others favor more supply side interventions; they tend to lean in the direction of inclusionary zoning policies, as it presents the potential to make affordable housing financially self-sustaining and absent of the need for subsidies, a feat that most other interventions cannot accomplish. What is unclear though, is which of these strategies, some of which are already in use in Los Angeles, will help to retain the affordability of below-market-rate housing units beyond the state and city mandated restricted use periods.

The affordable housing crisis in Los Angeles is not just a matter of capable thinkers coming together to craft a vision for some utopian city high on the hill. It's a matter that concerns real people, and equity among people. Los Angeles is one of the most diverse cities in the world, and the way that it handles its public policy surrounding housing going forward

doesn’t concern just those who are low income an

upon affordable housing production methods in Los Angeles. It continues by discussing the difficulties that developers face during and after their affordability mandates expire, and attempts to investigate and put forth effective techniques that Los Angeles could more fully embrace or look to for the first time to ensure the retention of affordability in below market rental units.

Policy to Bring Affordable Housing to Market

Since the introduction of Franklin D. Roosevelt's New Deal, the government stimulus program intended to put citizens back to work after the Great Depression through massive public works projects, social services in the United States have become more and more privatized. The general consensus has been established among many that the private sector can act within shorter timelines and lower costs than the federal government (Ballard, 2003). Affordable housing has largely been considered a social service over time, but no longer are the days when the federal government's Department of Housing and Urban Development (HUD) finances, constructs, and manages its own housing for the neediest in society. Instead, lobbying, and distrust of the government, cultivated out of failed public housing projects like Pruitt-Igoe, has led general sentiment to favor providing incentives to private actors in the housing industry, namely developers and landlords. Section 8 subsidies, funded through the Federal Government, and inclusionary zoning, are two of the most heavily relied upon strategies in Los Angeles to incentivize private, profit-oriented entities to develop and operate affordable housing.

Section 8 Subsidies

Section 8 of the United States Housing Act of 1937 first introduced the concept of supply side incentives for making available more housing that may otherwise be limited or unavailable to low-income resident tenants. More formally known as the Housing Choice Voucher, the voucher provides low-income tenants, typically making less than 50% of AMI, access to rental housing owned and operated by a landlord in the private market. The government subsidizes the gap between the rent owed by the tenant, and a set percentage of the tenant's income that they are required to put towards the rent payment (Carlson, Haveman, Kaplan, & Wolfe, 2011). The landlord must be willing to accept the housing choice voucher, more often called a Section 8 voucher, and the property must meet minimum thresholds for health and safety set forth by HUD (Carlson et al., 2011). If the landlord agrees, and the property qualifies, Section 8 contracts between the landlord and subsidizing body should run for the "lesser of: the term of the project's financing (but no less than 20 years), 30 years, or 40 years if the project is owned or financed by a State or local agency, is intended for occupancy by non-elderly families, and is determined by HUD to require special financial assistance (HUD, 2019). Landlords have to weigh the benefits of receiving consistent and secure rental payments and low vacancy rates with their fears that renting to Section 8 tenants could lead to significant property damage (Weinberg, 1982).

In Los Angeles, 14,000 private Section 8 landlords provide homes to some 57,000 voucher-holding families (HACLA, 2015). These tenants rely on vouchers to make their rent payments, and because more vouchers are only made available when one's income rises above the maximum threshold, or dies, only 2,400 new vouchers become available every year (Smith, 2017). In October of 2017, the waiting list to apply for Section 8 vouchers opened for the first time in 13 years, leading 600,000 Los Angeles residents to apply for the 20,000 spots open on the waiting list (Smith, 2017). And in the United States as a whole, according to data collected

since 2011, the program has benefited more than two million people every year, yet this still only meets a   of the demand for vouchers (Carlson et al., 2011).

Inclusionary Zoning

Taking an alternative approach to rent subsidies is the sitt -10 (t) -10 (vd(t (nab) 9 (i) -2(na) Q (n) -10

inclusionary zoning is a great way to make them do so. Others consider inclusionary zoning to be the best corrective tool available to reverse exclusionary zoning, despite the fact that the developer wasn’t responsible for creating the long-term negative

projects and operate them at an affordable rate for 55 years if they request a zone change or variance on a project of more than 10 units, or pay into the city's housing trust fund, while simultaneously requiring that they hire local labor at union wages (Chiland, 2018).

Although many are still concerned that it will slow the pace of construction, in 2017 approximately 20,000 new multi-family units were approved, indicating that the policy has not dampened developer appetites to develop in the city (Chiland, 2017b).

Financing Affordable Housing

The challenges associated with financing affordable housing is one of the primary reasons that few profit-motivated developers choose to make affordable housing their niche. Most affordable housing projects developed by for-profit entities are funded by no fewer than 3 or 4 sources of capital (Blumenthal, Handelman & Tilsley, 2016). The average nonprofit developer, on the other hand, syndicates an average of 7.8 funding sources, according to Rachel Bratt of the Joint Center for Housing Studies at Harvard (Bratt, 2012). Typically, financing comes from a first mortgage, tax credits, and at least 3 other sources of financing that provide gap financing. Usually, funds come from the Federal Home Loan Bank's AHP, HOME and CDBG funds, deferred development fees, equity gap contributions, general or limited partner contributions, tax-exempt bonds issued by state or local municipalities, or vouchers (Blumenthal, Handelman, & Tilsley, 2016). The bulk of the upfront capital infusion will go to funding the acquisition and construction of the project, with the cash flow from the project's rents to service the debt and cover all operating expenses ("How Is It Built? - California Housing Consortium"). At Seattle's High Point Project, which will bring to market a mix of 1,600 affordable and

market-rate units when completed, funding came from 5 sources: of the $550 million in project financing, $285 million was provided by unspecified private investment capital, $35 million came in the form of a Federal grant to help fund the redevelopment of dilapidated public housing projects, called HOPE VI, $106 million came from other unspecified public funding sources, $68 million was generated from tax-exempt bonds, and $56 million was generated through the sale of Low Income Housing Tax Credits ("Case Studies in affordable housing: Seattle's High Point Redevelopment Project | HUD USER").

Since the dissolution of Community Redevelopment Agencies in 2011, which provided upwards of $50 million a year to the city of Los Angeles, money for affordable housing projects has been harder to come by (Visotzky, 2015). CRA's, as they were more affectionately called, were the largest source of financing for affordable housing projects in the state, but dissolved because of the budget woes that rocked California during the recession of 2007-2009 (Murphy, 2018). Now, the money that was allocated to the city through CRAs has been redirected to the City's General Fund (Visotzky, 2015). In the meantime, money that became unavailable through the dissolution of CRA's has been effectively replaced by measures like HHH in Los Angeles, which will raise $1.2 billion by levying higher property taxes on LA's homeowners ("Supportive Housing (Prop HHH) | HCIDLA"). This bill was initially intended to support the construction of more than 10,000 units of housing for the formerly homeless and those at risk of becoming homeless, yet now estimates are closer to 6,000 units, leaving many questioning the city's ability to effectively disseminate funds (Chiland, 2018b). Either way, the bulk of the funding that remains for the construction of affordable housing in Los Angeles is limited to the four sources that follow.

Low Income Housing Tax Credits

The Low Income Housing Tax Credit (LIHTC) was initially introduced through the 1986 Tax Reform Act, and is now the most heavily relied upon subsidy in the creation of new affordable housing (Ballard, 2003). Originally intended to encourage private developers to provide a public good, developers apply for tax credits from the state, in which they outline the scope of their project, from the affordability levels of the units that will be developed to the sources of funding that they are syndicating to capitalize their project. The tax credits are issued to developers if approved by the state, with developers then selling their tax credit allocation at approximately 80 cents on the dollar to private equity investors who are granted a credit allocation every year for 10 years to offset their tax obligations (Ballard, 2003). Their investment also earns them equity, or an interest in the value of the development. The developer selling the tax credits uses the cash upon sale to finance the project's "hard" construction costs (Ballard, 2003).

From 1986-1989, projects that received LIHTC allocations were required to keep units

still negotiate to prepay their mortgage with the lender, many of which are unwilling to because it caps the profits from interest that can be made from issuing the loan. States that permit a relief process to be carried out are encouraging the unsustainability of affordable housing markets in which longer affordability restrictions on units are not imposed by another mechanism, as was concluded by a recent HUD report carried out with the help of Abt Associates ("What Happens to LIHTC Properties After Affordability Requirements Expire? | HUD USER"). The report, titled "What Happens to Low-Income Housing Tax Credits at Year 15 and Beyond?" gathered data from numerous interviews with developers, financiers, brokers, and public agency staff all working with LIHTC properties. They tracked more than 11,000 properties built before the 1990 introduction of the 30 year compliance term, finding that approximately 32% were no longer monitored by the state HFA, which ensures the compliance of (oxi)5589.92 cm BT 53W,Q q 0. 12 589.92 cm B

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Developers agree to keep their units affordable for a minimum of 55 years if they are receiving 9% tax credits, with at least 40% of units at or below 60% of AMI or 20% at or below 50% of AMI (Vergolini, 2013). The City of Los Angeles is entitled to 17.6% of the entire tax credit allocation for the state of California, with Los Angeles County receiving another 17% (Vergolini, 2013). In 2016, the LIHTC was responsible for the construction and rehabilitation of more than 5,000 units alone, and from 1987 to 2009, 2.2 million units of housing have been produced using the subsidy throughout the country, making it responsible for the lion's share of affordable housing development in the United States (Murphy, 2018) (Khadduri et al., 2012).

CDBG Funds

Supplementary to the LIHTC, state-disseminated and jurisdictionally controlled Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) funds are largely intended for the purchase, development, and rehabilitation of

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funds, with 70% of the funds mandated for community development benefiting those with lower and moderate incomes (HUD Exchange, 2018). Grant amounts are calculated based on U.S. census data collected on overcrowded housing, housing age, population, and poverty, and approximately $3 billion was disseminated in 2017 (HUD Exchange, 2018) (Flores, 2017).

In California, from 2012-2017, The California Department of Housing and Community Development rewarded $210 million to local jurisdictions, with 19% of the funds going to aid in "housing assistance" (Brown, Podesta, Metcalf, 2018). However, in the most recent report to the California Legislature, Governor Brown mandated that 50% of available CDBG money be allocated for housing, thereby expanding the public subsidy pool for affordable housing developments throughout the state. That being said, the availability of CDBG funds to the city has been diminishing rapidly, from some $90 million a year in 2003 to just over $50 million as of 2014. Funds may become even harder to come by going forward, as in 2014, Los Angeles city was audited by the HUD Inspector General, with the audit illustrating that Los Angeles had misappropriated CDBG housing funds, awarding money to developers whose projects did not meet CDBG guidelines (Schulze, 2014).

Compared to HOME funds, CDBG money has far less stringent guidelines as to how money must be used. It comes with no standard for unit quality, no project investment cap, and additionally, the funds don't require that the benefitting project keep its units affordable for any duration of time, leaving the projects vulnerable to potential conversion or sale if the project does not have a complementary covenant or deed restriction retaining its affordability (HUD Community Planning & Development). However, if a CDBG-assisted project is converted to another use, including from affordable to market-rate, the amount of CDBG funding that was originally allocated must be reimbursed to the allocating body before the property can change

use (HUD Exchange, 2018).

HOME Funds

HOME, short for HOME Investments Partnership Program funds, were originally allocated by HUD as a result of the National Affordable Housing Act of 1990. The program composes

must comply with outlined property standards ("HOME and CDBG: Working Together to Create Affordable Housing - Training Manual and Slides - HUD Exchange," 2012). Because HOME funds are often paired with tax credit allocations by developers to fill funding shortfalls and don't have extended use restrictions that mandate affordability terms beyond the maximum required 20 years, projects that receive HOME funds are at similar risk of conversion to LIHTC and CDBG projects if there are no other covenants requiring that affordability is retained for longer (Mullen, 2006). In Los Angeles, the Community Development Commission carries out the responsibility of disseminating the $6.4 million in HOME funds that are allocated to Los Angeles County every year, partially responsible for the construction of more than 10,000 affordable units that are now in operation in the City of Los Angeles (LA CDC, 2019). More than 1.1 million units of affordable housing in the United States have been capitalized using HOME funding ("The Alignment Project," 2014).

Tax-Exempt Bond Financing

Tax-exempt bonds are the final major source of financing for affordable housing. Established in 1986 alongside the LIHTC to incentivize the private development of affordable housing, they are now one of the most well-utilized public financing mechanisms that exists (Texas Department of Housing and Community Affairs, 2019). Bonds are

be issued annually (Mishra, 1997). These bonds have a lower interest rate

50% of AMI or 40% of the units for residents making less than 60% of AMI ("Municipal Bond Finance | HCIDLA," 2019). Additionally, the affordable units must remain at or below affordability thresholds for the greater of (a) 15 years from the beginning of the Qualified Project Period (as defined in the Internal Revenue Code of 1986), (b) as long as the bonds remain outstanding, or (c) such period as may be required in the opinion of bond counsel to meet federal or state law" ("Municipal Bond Finance | HCIDLA," 2019). In Late 2016, voters in Los Angeles approved Measure HHH, a $1.2 billion tax-exempt bond to raise money for permanent supportive housing, which has recently been estimated to produce approximately 6,000 units, making it one of the most effective financing strategies for delivering affordable housing units to the market in Los Angeles (Chiland, 2018b).

Although all of the financing strategies detailed above make a project's development and operations possible, affordable housing developers are often met with a difficult decision about what to do with their properties once the federal, state, and local subsidies run out and they are no longer required to retain the affordability of their below-market-rate units.

Barriers to Retaining Unit Affordability

Restricted Use Periods

The vast majority of newly developed affordable housing projects are subject to a period of time in which the development's units must remain at a certain affordability threshold, called a restricted use or regulatory period. In the case of LIHTCs, this regulatory period is known as a compliance period when LIHTCs are being received to finance a project, running for up to 30 years from the first day of a project's operations. In addition to the LIHTC compliance period,

almost all developers in housing burdened cities are subject to an affordable housing land use covenant, which is activated when the developer requests a concession from the city in the form of a density bonus, parking variance, or zone change, effectively deed restricting the property for the life of the regulatory period (“Part 17 - DENSITY BONUSES AND AFFORDABLE HOUSING INCENTIVES | Code of Ordinances | Los Angeles County, CA | Municode Library,” 2019). These covenants are initiated so frequently because almost no project is successfully built without the developer requesting at least one of these concessions, especially parking concessions and density bonuses. The land use covenants “obligate an owner to designate a specified number and type of dwelling units for occupancy by very low, low, or moderate income households, usually for a term of 30 – 55 years”

Capital Needs to Meet Rising Operational Costs

For many affordable housing developer-operators, especially nonprofits, having a project's units subject to rent caps over the duration of a 30 - 55 year period makes it difficult to keep up with the rising costs of operating the property while

Nonprofit Considerations

For nonprofits more so than for-profits, keeping housing projects in strong financial standing over the long-

leaving them more vulnerable to a weak rental market in which even subsidized rents cannot be earned (Bratt, 2009) (Schwartz, Ellen, Voicu, & Schill, 2006). And to compound these already difficult circumstances for development, Bratt contends that the management of the property is often subpar as nonprofit employee turnover is high, leaving the property at risk of more expensive repairs over the long-term, and furthering the poor financial health of the project (Bratt, 2009)

housing units in operation in California as of early 2018, and a risk that each one could be converted prematurely, new opportunities for preserving the existing stock of affordable housing units could use further exploration (California HCD, 2018).

Strategies for Extending Unit Affordability

Strategizing around how to keep affordable housing affordable beyond the regulatory period is one of the most persistent challenges faced by local jurisdictions all over the country. In most metropolitan areas in the United States, where the majority of Americans now live, the price of land has consistently risen (Glaeser, Gyourko, & Saks, 2005). As land becomes more and more of a commodity, subject to speculation and competition between profit-seeking enterprises, it is difficult to keep those who purchase this ever more expensive land from keeping the current rents in place, leaving low income renters out of the market in many cases (Glaeser et al., 2005).

(“Preserving and Monitoring At-Risk Housing | HCIDLA,” 2019) And while these strategies are critically important, the public sector alone cannot solve the preservation crisis. Below are examples of strategies that have and continue to be carried out either privately, or in a public-private partnership, in Los Angeles, to retain units that are at-risk of being lost from the market for affordable housing units.

Limited-Equity Housing Cooperatives

Curtin & Bocarsly (2008)

Maxwell Ciardullo, a policy analyst at the New Orleans Fair Housing Action Center, contends that many believe the shareholder model is one of the greatest downfalls of the LEHC model. It prevents many who buy into LEHC from having the opportunity to benefit from what has historically been one of the most heavily appreciating assets: the single-family home. Over time, single-family home investment has allowed many of modest means to achieve moderate levels of wealth as the equity they have in their home grows as they pay down their debt, assuming the value of their home increases (Ciardullo, 2012). Because homeowners in LEHC's don't take out mortgages on their properties, but instead buy ownership shares from the LEHC at artificially depressed prices, they are prevented from participating in a massive wealth generating opportunity.

Community Land Trusts

Community Land Trusts operate in close partnership with LEHCs, and with

popularity has skyrocketed, seeing a two fold increase as homes have become more and more unaffordable to those of lower incomes, according to (Moore & McKee, 2012). Crabtree et al. (2012) argues that this partially has to do with the fact that CLT's "retain" rather than "recapture" subsidies, as homeownership grants do, and they remove the risk of rising land costs by removing land from the market, helping low income people afford the purchase of units better than other subsidies. A study by (Davis & Stokes, 2009) of the Champlain Housing Trust in Burlington, Vermont conducted between the years of 1984 and 2008 proved the validity of Crabtree et al's arguments in favor of community land trusts, finding that the price of homes in the community stayed relatively stagnant despite upward pressure on prices over time on most other unprotected 24 0 524 0 0 0.24 12(un2) 9 (t-7 ((y)] TJ ET Q q 0.24 0 0 0.24 12 589.92 cm T 50 0 0 57198-

opportunity for residents to become upwardly mobile as they have more "local control" than they would in a traditional affordable housing development (Ciardullo, 2012).

Setting up CLT's in areas with high land values often presents a tremendous challenge. In a report authored by Gauger (2006) geared for community-based organizations and local governments interested in setting up a CLT, he lays out 3 of the most common challenges that are faced. First, the CLT must be able to find additional financing sources, as the sources used by CLT's in cheap markets won't provide a deep enough subsidy to reach the buyers that the properties are targeted for. Secondly, he argues that neighborhood activists become even more

to communities (Gauger, 2006). A CLT's ability to work with the challenges presented above and effectively carry out Gauger's proposed solutions often will be the deciding factors between success and failure for CLT's in a competitive market.

Joint-Venture Partnerships

Partnerships & Access to Financing

Nonprofit-private sector partnerships represent an institutional strategy for constructing affordable housing and maintaining its affordability over the long-term. According to the law firm Patterson Belknap Webb & Tyler LLP, a joint venture is "an association of two or more persons or entities that undertake a project for profit with a community of interests in the performance of common purposes, a propriety interest in the subject matter, a right to govern and direct the policy in connection therewith, and a duty (which may be altered by agreement) to share in both profits and losses" (Inbar, Webb, & Llp, 2011). The structuring of joint-venture partnerships in housing enables nonprofits and for-profits to help each other qualify for increased federal funding for their projects and to receive recapitalization funds, which allow for stabilization of the property's finances post expiration when many properties are operating in the red, and need repairs, according to Amy Chung of Harvard (Chung, 2004). Tim Morgan, a developer, attorney David Leon, and Bob Ansley, all of whom have experience with public-private partnerships, in their presentation at Florida Housing Coalition in 2010, echo this rhetoric, adding that partnerships can make accessible to for-profits subsidies that they would otherwise be excluded from receiving, namely HOME funds and Community Reinvestment Act (CRA) loans (Morgan, Leon, & Ansley, 2010). They also

enables nonprofits to ascertain a high level of financial sustainability that they would otherwise not have access to. Over time, this would keep more units affordable, they argue, as default and the risk of negative operating balances would be mitigated, because for-profits can cross-subsidize their properties, assuming they have a decent sized portfolio of well-performing properties (Morgan et al., 2010). They continue, contending that both the for-profit and nonprofit would successfully fulfill their respective missions, and the market for affordable units would see downward price pressure over the long-term as units are not continually removed from the market because of repositioning or abandonment (Morgan et al., 2010).

2004). However, in the development of affordable housing, where the majority of partnerships are applying for LIHTC's to fund their project, these rules don't apply (Chung, 2004). When the partnership team applies for and receives a specified tax credit allocation, the tax credit investor always becomes the limited partner, with it carrying a 99% ownership interest and almost entire financial liability, meaning the majority of profits in a successful development and significant financial loss in the event that the development fails, while the nonprofit-for-profit team become general partners and carry only 1% of the financial burden and responsibilities (Chung, 2004).

Further, Chung notes that for the partnership team to qualify for public financing set aside specifically for nonprofits, one of the key reasons for-profits partner with nonprofits, the nonprofit must carry a majority of the 1% ownership interest that that general partnership carries (Chung, 2004). With this 1% interest still comes significant risk, especially if the project is of high value, which is why many partnerships choose to set up limited liability corporations

The strongest determinant of development success in a joint-venture partnership is the compatibility of partners, according to (Morgan et al., 2010). The most significant challenge presented in forming development partnership is the fact that nonprofits and for-profits have inherently different missions, because while nonprofits are “guided by charitable purpose with prohibition against private benefit”, for-profits “operate exclusively for private benefit (profits)” (Morgan et al., 2010). As such, choosing a partner that understands your firm’s mission, and who operates out of “honesty” and “integrity”, has a solid “reputation” and with which you have “chemistry” is crucial to development success (Morgan et al., 2010). Amy Chung confirms the credibility of this perspective, and adds that the value brought to the table by each firm in the partnership team largely influences the structuring of the partnership terms (Chung, 2004). Because nonprofits bring tangible value to for-profit developers in the form of established relationships with the community in which a development is targeted, currying support for the project and enabling shorter development timelines, while for-profits have the experience and financial backing that nonprofits lack, for-profits are often more focused on the financial terms of the partnership (Chung, 2004). She states that based on her research, private developers

One of the most effective strategies for delivering affordable housing is through the lease of public land to private parties which intend to build affordable housing. Its effectiveness stems from its ability to bifurcate property ownership, a powerful affordability preservation technique, according to Marina Yu of Columbia University (Yu, 2015). In essence, a "ground lease ties the land owner to the user", enabling the land owner to "impose affordability controls on the user, including the prospect of lease term renewals for continued affordability", similar to a community land trust, in which land is removed from the speculative market (Yu, 2015). Because the public entity owns the land, and is acting for public benefit, the risk that the units will be converted or abandoned is eradicated, securing the ability of the units to meet the needs of low income individuals decades beyond its initiation. The origins of the ground lease concept go back hundreds of years, to medieval Europe, in which feudal structures prevented the ownership of land by anyone but the king, and even the highest up in society were limited to occupying the land as a tenant for a set period of time under 100 years (Yu, 2015). To this day, land leases run on the land typically from anywhere from 21 to 99 years, with 49 year and 99 year leases most common (Yu, 2015).

In Los Angeles, the ground lease model has been carried out rather successfully. Because many cities, like Los Angeles, already own a percentage of the available land in their city, they can develop this available land for public benefit in partnerships with private entities. The city will typically issue a Request for Proposal (RFP), in which it agrees to make land available to a developer-operator for almost nothing ($1 a year in Los Angeles), in exchange for the developer putting together the team and financing necessary to successfully carry out the construction and operations of the project (LA City Administrator's Office, 2016). Ground leases in Los Angeles cannot run for more than 50 years, and are typically offered to the developer not only with the

best architectural plans and secure sources of funding, but to the entity that intends to keep the project affordable for the longest term (LA City, 2017). Currently, Los Angeles city owns 9,000 distinct parcels, of which more than 100 are currently home to affordable housing developments (Galpering, 2016).

Research Question

What tools and strategies can the City of Los Angeles use to retain the affordability of below-market-rate housing units as they reach the end of their regulatory period?

Methods

The study that I have carried out intends to contribute to a particular niche within affordable housing literature that has minimal academic inquiry. While there is extensive research covering affordable housing development, there has been little research completed that explicitly addresses potential solutions for preventing the removal of affordable housing units from the market. My primary research question of focus is: **what tools and strategies can the City of Los Angeles use to retain the affordability of below market rate housing units as they reach the end of their regulatory period?**

Design and Procedure

To answer the research question put forth above, and better understand the current

housing experts in Los Angeles. Each interview was kept under an hour long, and was valuable not only in providing contextual information, but also in crafting well thought out policy recommendations.

In order to standardize the data that I have collected, I transcribed the interviews that I carried out and then listed every theme in a table which includes each of the interviewees names across the top on the horizontal x-axis and the list of themes alluded to in the vertical y-axis. I then tallied the referred to themes of each of the interviewees in this table. This enabled me to add up the number of times each of the themes was referred to. Every theme that was referred to more than once was included in the data section as a relevant solution that could have long-term

Findings

Affordable housing is not only the area of expertise of all of those that were interviewed, but the preservation of affordable units, which lies at the crux of this report, appears to be at the top of mind for many. Preserving affordable housing units is difficult for several reasons: it implicates multiple stakeholders all of whom have different intentions, access to capital and other resources, and often with fundamentally different structures; it requires government subsidies and multiple layers of financing which means working in partnership with large, slow moving bureaucratic bodies, and, it is, by nature, an extremely public activity, subject to extensive scrutiny by those who are non-experts.

Several general themes emerged from the data collection process. First, everyone that I interviewed either explicitly or implicitly shared that they felt that the private sector, and specifically private developers, both nonprofit and for-profit, are critical stakeholders not only in the new development process, but are equally integral to ensuring the long-term security of units

- Los Angeles should look to other cities in California with similarly high land costs for more efficient preservation models
- Lengthen regulatory period requirements
- More public subsidies need to be made available to developers
- It is unclear which proposed solutions will prove to be viable over the long-term in Los Angeles, and which have no shot

The Siloed Nature of the Affordable Housing Sector Prevents the Preservation of More Units

What became clear by conducting numerous interviews with industry experts and professionals faced with the concerns associated with preserving affordable housing is that the affordable housing industry is rather siloed. Having spoken with public sector housing experts, nonprofit developers, and lenders on affordable housing projects, it is apparent that while developers know how to build, public sector officials understand and can communicate housing policy, and lenders have the capacity to explain the nuances of finance, I was witness to very little cross-sector expertise. What results from this is a lack in sensitivity to the needs and desires of the other stakeholders that are involved in the housing market, and subsequently a lack of transparency. Exacerbating the lack of cross-sector capacity is also a general feeling that the representatives of each party tended to speak about preservation techniques that were in alignment with their own needs and desires, rather than necessarily for the health of Los Angeles' housing market as a whole. For example, one of the public sector experts that I spoke to felt that "there are [already] enough incentives already in place to keep units affordable"

developers felt differently

NIMBYism: A Blow to Affordable Housing

Consistent throughout most of the interviews that I conducted was the sentiment that contributing to the urgency of the affordable housing crisis is a negative public perception of affordable housing. In 6 of the 8 interviews that I conducted, the acronym NIMBY, standing for Not In My Back Yard, came up, specifically in relation to what makes the development and sustainability of affordable housing units in Los Angeles so difficult. The term NIMBYism classifies a set of behaviors carried out by fearful and power-hungry homeowners

keeping units affordable. William Huang, Pasadena's Director of Housing, stated that in Pasadena, a similar model is in place: "in order to preserve units, [the city] requires that land is sold to [them] as a public agency when the original developer-operator exits the deal, and then [the city] turns around and leases [the land] at $1 a year. This model would enable nonprofit developers, most of which will keep units affordable for the life of the project, but are also cash strapped, to construct more units throughout the city, as they often lose out on land because for-profits with stronger financial backing can pay more for the same land. However, it would also

risk is completely mitigated. The risk to taking this approach is that in the case that developer-operators don't have the means to keep themselves afloat while continuing to operate the project successfully, they may be forced to leave the project in disrepair for an extended period of time or even abandon the project in dire circumstances.

Expand Subsidies to Help Developers Finance Long-Term Operations

According to more than half of the experts that I spoke to, the only real solution to helping developers stay afloat is through the expansion of subsidies, or by loosening the restrictions on rent growth. There was general consensus as to what particular subsidies were necessary to successfully assist developers throughout the life of their projects. On top of funds put forth by municipalities to fund acquisitions, which are typically raised through developer payments to the city during the entitlement process, Lender Perica Bell contended that "[the city] should look at the feasibility of longer section 8 subsidy contracts", which developer Holly Benson agreed was important.

use periods that are 55 years or shorter could be viable. Ms. Ku mentioned that San Francisco has a program called the Small Sites Program which effectively operates using this model by “incentivizing new nonprofit buyers of buildings to maintain in-place low rents in the face of high upside market pressures” because subsidies ranging from $250k-$300k per unit are made available to the operator upon purchase in exchange for an extended period of required affordability.

There Is No Clarity Around Viable Solutions

Despite not being tallied in the aforementioned table because of its lack in tangible references, the most visible theme that emerged from my discussions is that Los Angeles is a city like no other, with its own unique housing preservation challenges and a set of remedies that are still very much being designed and tested. Similarly, there is no cam BT 50 0 (f) - (r) -7 (yn 5018 (e(t) -2)-2 (s) 9

Fundamental to ensuring that units are retained in Los Angeles is making the general public aware that the addition of new affordable housing to communities is an asset, not a liability, and that the complexities associated with closing the gap in affordable housing run much deeper than just the production of new units. It does not serve developers, homeowners, tenant organizers, or any of the other stakeholder groups when there is a lack of transparency or understanding that keeps non-experts from being made aware that operating affordable housing for those of the lowest incomes is not financially self-sustaining; outside resources are necessary. If there is any hope of garnering support in the future to raise funds specifically for subsidizing at-risk units, then more expansive public outreach and engagement efforts need to be made to limit Nimbyist behaviors.

2. Leverage municipal power and incentives to encourage more private sector partnerships.

Although nonprofit, for-profit partnerships are currently an underutilized mechanism for

The drawback to partnerships among developers are: a) they require further governmental coordination to mediate the partnership terms and ensure that nonprofits have a fair stake in the deal; b) they can be difficult to structure given the often divergent underlying missions and subsequent priorities of for-profit and nonprofit developers and c) incentivizing partnerships can be an expensive use of government resources, according to the experts that were interviewed.

3. Explore the viability of implementing longer regulatory periods.

To fully mitigate the risk of unit conversion or repositioning, Los Angeles should work closely with cities where longer affordability covenants have been successfully implemented to draft and introduce affordability covenants that operate in perpetuity. These covenants should be levied on all residential projects that utilize public subsidies during the development process, yet must be paired with an expansion of operational subsidies.

4. Dedicate more funds raised from development-related fees for unit preservation purposes.

On top of the hard costs associated with developing a new building, developers leave a significant portion of their budget allocated to paying soft costs, most of which will be paid to the city. These costs usually take the form of entitlement fees and impact fees, which are paid to

Los Angeles should adopt new policy for allocating these funds. 50% of the funds should be allocated for preservation, with 50% of these preservation funds used to acquire land which can be leased to affordable housing developers. Currently, the bulk of affordable housing funds that are

Many experts have argued that Section 8 is riddled with flaws, from landlords leaving their properties in disrepair, causing families to live in conditions unfit for habitation to its ineffectiveness at moving the poor into neighborhoods with better opportunities for education and work, and higher per capita incomes. There is evidence that Section 8 has led to the increased concentration families in the most depressed parts of cities, leaving them without any opportunity for upward advancement, according to many. Although these concerns are important to consider, and it is necessary to work on making the necessary improvements to the program, Section 8 still represents a valuable opportunity for housing many of those living below the poverty line. As such, Los Angeles should initiate discussions with HUD regarding the viability of offering longer-term Section 8 contracts for developer-operators that agree to keep their projects affordable. Because the maximum length of a Section 8 contract that can be accessed is 40 years, and most affordability covenants on new affordable housing developments in Los Angeles require that units remain affordable for a minimum of 55 years, landlords are left in a vulnerable position once these contracts expire. Lengthening the term of the contracts would enable these operators to continue operating high quality, below-market units without facing the need to reposition or contemplate a sale of the project.

Limitations

Limited Sample Size

The data is inherently limited because of the limited number of interviews that I carried out. While I originally intended to carry out 15 interviews, with 5 lenders, 5 for-profit and nonprofit developers, and 5 public sector officials, several of the individuals that I reached out to either did not respond to my request for comment or were unwilling to sign my consent agreement. This was especially true among for-profit affordable housing developers, none of whom I could get to speak to me. As such, the number of potential solutions was limited and the perspectives of the development community is limited to those who working in the nonprofit sector.

Limited Literature to Pull From

Because deed restrictions on affordable housing projects is a new concept within the last few decades, and we are just now starting to see the effects of operator conversions on a larger scale, the research available to pull from to inform this study was limited in availability. Most of the research that was previously completed was focused on affordable housing finance and solutions for spurring new development of affordable housing.

Private Sector Bias

The findings that resulted from my time spent interviewing the 8 individuals that provided the basis for my recommendations were difficult to piece together at times. Interviewing affordable housing stakeholders with different missions and intentions in the work that they do makes it difficult to standardize the data that is collected. Although the reason that I

housing units, especially those that can be rented at below-market rates, a priority, the City of Los Angeles needs to seriously consider new strategies for retaining the units that already are

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Appendix A: Qualitative Instrument

Interviewees:

Sean Spear, Assistant General Manager, LA Housing + Community Investment Department

William Huang, Director of Housing, Pasadena

Becky Dennison, Executive Director, Venice Community Housing

Beulah Ku, Senior Manager, Century Housing

Takao Suzuki, Director of Community Economic Development, Little Tokyo Service Center

Holly Benson, Executive Vice President, COO, Abode Communities

Larry Newman, Manager, LA Community Development Commission

KeAndra Cylear, Manager, LA Community Development Commission

Perica Bell, Managing Director, Community Development Finance, Union Bank

Sample Interview Questions:

1. How familiar are you with the mandated period of time that newly developed affordable housing units that use public money must remain affordable, sometimes called the compliance period?

2. Are you concerned with the number of units that are developed to be affordable and then are converted to market-rate or sold to a third party after the restricted use period?

3. Does the removal of these units from the affordable housing stock contribute significantly to the shortage in affordable housing that Los Angeles is currently experiencing? If not, what are the primary causes that you have witnessed?

4. Is there land use policy in place specific to Los Angeles that makes developing affordable units more difficult than in other places?

5. What financial factors contribute to making the development of affordable units in Los Angeles so difficult?

6. Do nonprofit and for-profit affordable developers have different long-term goals for their affordable housing developments? Does one have more incentive to maintain unit affordability over the other?

7. What are the biggest barriers to maintaining the affordability of units beyond the restricted use period for the owner-developer?

8. What strategies could be utilized by the city to ensure that units remain affordable in perpetuity?