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EXPERT INSIGHTS ON INCLUSIONARY ZONING

An in-depth look at the evidence, policy considerations, and impact

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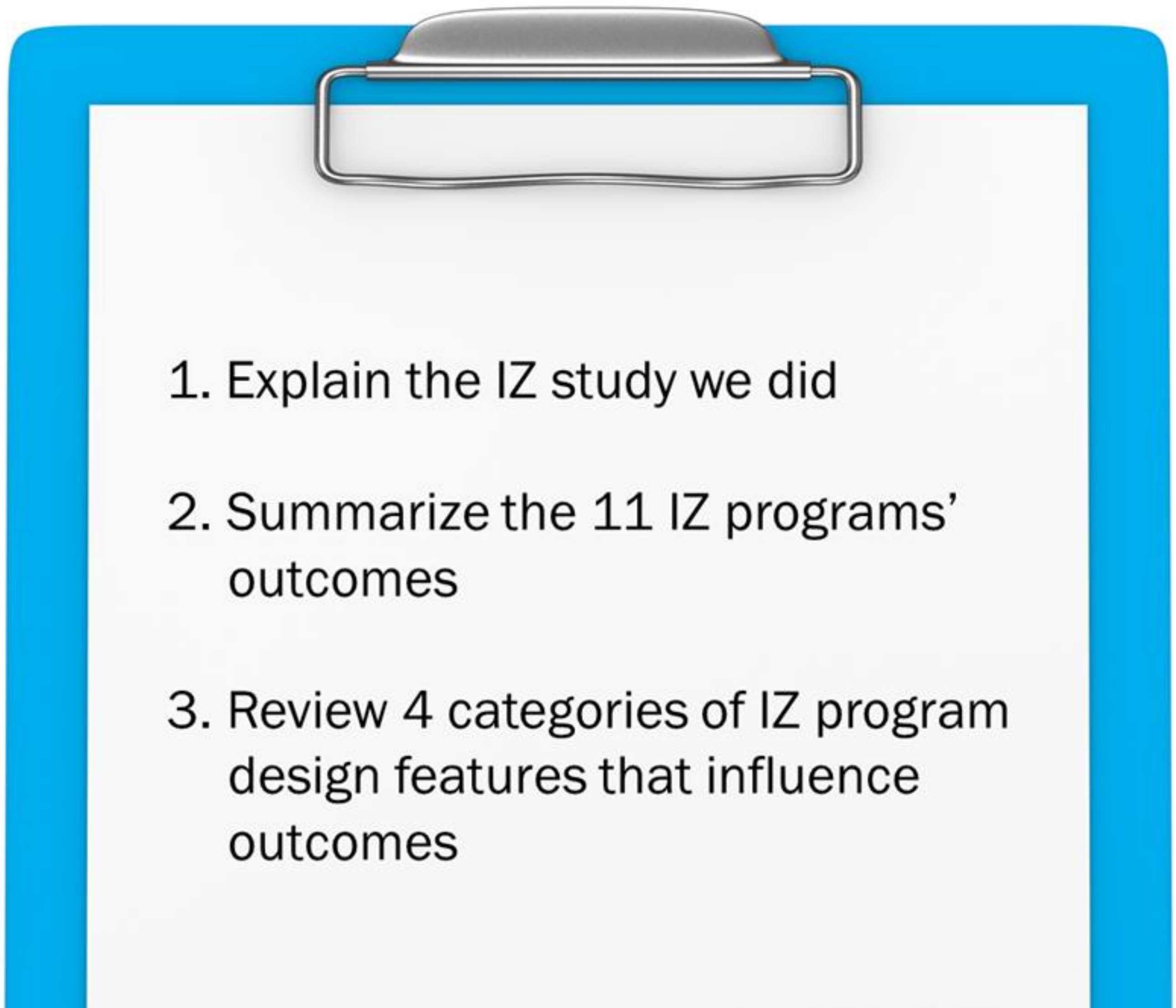
How IZ program design shapes outcomes

Heather Schwartz, April 29, 2019

Presentation Overview



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Is Inclusionary Zoning Inclusionary?

A Guide for Practitioners

by Heather L. Schwartz, Liisa Ecola, Kristin J. Leuschner, Aaron Kofner

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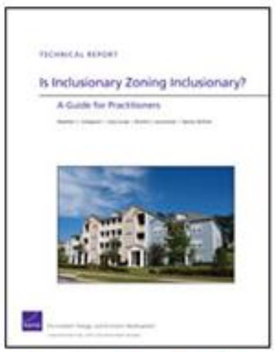

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Abstract | Key Findings | Recommendations

Inclusionary zoning (IZ) has become an increasingly popular tool for providing affordable housing in an economically int
developers to set aside a proportion of units in market-rate residential developments to be made affordable for lower-i
development rights or zoning variances. These policies are considered "inclusionary" because they are intended to allo
buy or rent property in middle- and upper-income communities. This report examines 11 IZ programs across the United
policies serve lower-income families and provide IZ recipients with access to low-poverty neighborhoods and residentia
thereby promoting the academic achievement and educational attainment of their children. It also considers ways in wh
features might affect the success of the programs in promoting affordable housing and social inclusion for IZ recipients.
that shape the potential to meet the goals of providing affordable housing to low-income households and promoting sc

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Studied 11 IZ Programs

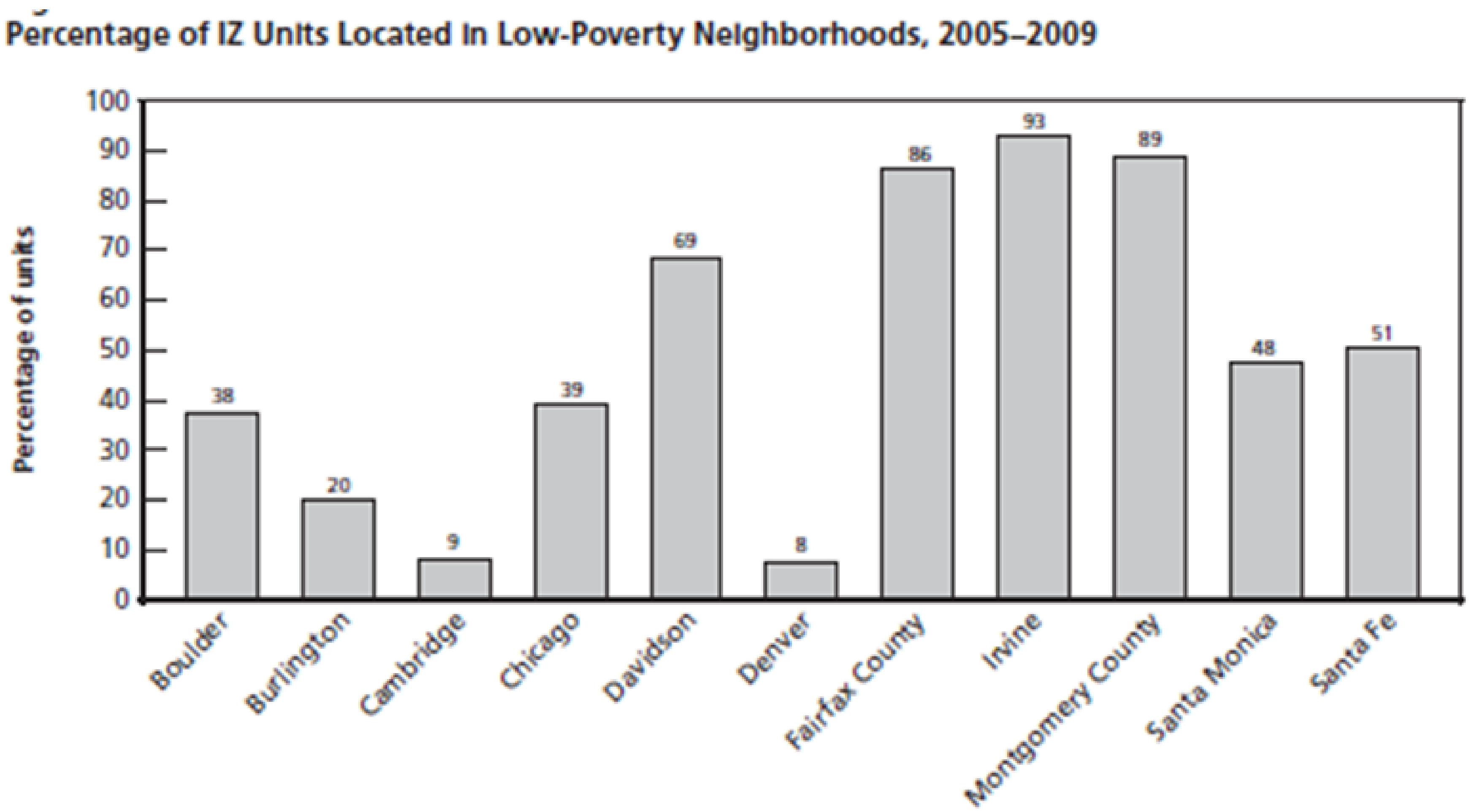
IZ Program Locations in the Study

Location	Region	Year Current Version of IZ Policy Enacted	Number of IZ Homes Built (as of 2010)
Boulder, Colorado	West	2000	364
Burlington, Vermont	Northeast	1990	~ 200
Cambridge, Massachusetts	Northeast	1998	~ 460[a]
Chicago, Illinois	Midwest	ARO enacted in 2003 and revised substantially in 2007; CPAN enacted in 2001	1,235[a]
Davidson, North Carolina	Southeast	2001	54
Denver, Colorado	West	2002	77
Fairfax County, Virginia	Southeast	1990	2,338
Irvine, California	West	2003	183
Montgomery County, Maryland	Southeast	1973	13,133[a]
Santa Fe, New Mexico	Southwest	2005	602
Santa Monica, California	West	1990	862

Across these 11 jurisdictions, IZ homes:

- Tend to serve **low-income people**: most capped at 80% AMI; some up to 100 or 120% AMI
- Tend to **serve owners rather than renters**: 78% of ~15k IZ homes we studied were for sale. Sales prices ranged from 61-83% market value.
- Tend to be **dispersed** throughout jurisdictions: located in 1 out of every 5 census tracts & zoned to 1 out of every 4 elementary schools
- Located in **low-poverty neighborhoods**: avg of 7% poverty rate in tracts/block groups where 1+ IZ located
- Assigned to relatively **low-poverty public schools**: 44% IZ homes assigned to elementary schools with 20% or less low-income student body

But, wide variety in outcomes produced:



Four categories of policy design choices:

1. Who are you serving: eligibility criteria for IZ recipients

2. What kind of development does IZ apply to?

- Is it mandatory (i.e., condition of permit approval) or voluntary
- Does the IZ policy include rental and ownership
- What's the minimum size of development, above which triggers IZ requirements
- What's the proportion of homes in a development that must be set aside for IZ
- Will there be continued affordability of homes after initial resale of IZ or lease-up?

3. What are the incentives for developers?

- Cost offsets
- Opt-outs

4. How will the administering agency monitor compliance?

Choices for eligibility criteria

1. **Income floor**
   - Ranges from no specified minimum income, to 50% Area Median Income (AMI) (Denver & Cambridge), to minimum annual income ($25k, $30k, $35k Fairfax, Montgomery County)
2. **Income ceiling**
   - Often different household income caps for IZ rental (lower cap) and IZ owner (higher cap)
   - Wide variation in income ceilings, ranging from 30% AMI, to 50%, 60%, 65%, 70%, 80%, 100%, to a high of 120% AMI
   - Increasing degrees of complexity
     - Simplest: just 1 cap (e.g., earn no more than 80% AMI);
     - More complex: tiered set of incomes (e.g., 25% of IZ homes in development X must be sold to <50% AMI)
     - Alternative example of complex: developer choice of renting X% of IZ rentals at rates affordable to very low income or renting higher % of IZ homes at rates affordable to next step up in renter income level
3. **Other criteria (examples)**
   - First time homebuyers; homebuyer training; certain employees eligible (nurses, teachers, public safety)

Choices about what development IZ applies to

1. **Mandatory or voluntary**
   - All 11 studied had at least some mandatory components (permit approval conditioned on compliance with IZ)
   - If voluntary, the idea is that the benefits like a density bonus are supposed to induce developer participation; mandatory programs generally yield more IZ units than voluntary ones
2. **Tenure: rental/owned homes**
   - 1 of 11 programs served renters only; 2 served for-sale only; other 8 had mix
   - Both market demand and local zoning stipulations regarding multifamily dwellings and tenure influence the tenure of IZ homes
   - Many IZ laws stipulate that IZ homes have the same tenure as the market-rate homes in the development
3. **Minimum development size above which IZ set-asides apply**
   - Minimums ranges from 5 to 50 homes in a development; a few programs required developments with fewer than five or ten homes to either provide one affordable unit or make an in-lieu payment
4. **Set-aside percentages**
   - Ranged from 10% - 30%; sometimes set-asides higher in developments that receive federal assistance than in developments that don’t (e.g., Chicago)
5. **Long term affordability**
   - Can run from 20-99 years or to the life of the building; future resale price typically based on the original purchase price plus an annual return on equity based on the buyer’s down payment and principal payments on the mortgage plus allowances for eligible capital improvements

Choices about incentives for developers

1. **Cost offsets**
   - Most common: density bonus. Developer can build more sq ft than otherwise allowed under zoning
   - Fee waivers
   - Reduced requirements such as for parking
   - Expedited permit processing

2. **Alternatives to compliance**
   - In-lieu fees: pay a fee instead of build IZ units. Local governing entity pools the fees into affordable housing fund, e.g. Boulder example: $119,922 per unbuilt unit or $100 multiplied by 20 percent of the total floor area of market-rate units.
   - Off-site IZ: allow developer to build IZ homes off site and not within the target development
   - Transfer of credits: a developer can provide more than the minimum number of IZ units at one site and count those against another site
   - Land: provide land for affordable housing
   - Trading credits: developers trade IZ credits with one another
   - Special housing: Provision of special purpose housing like single-room occupancy, shelter housing for homeless, or housing for special needs populations

Performance measurement, monitoring, compliance

Why this matters:

Tracking (a) how many IZ homes are produced of what type and when, and (b) characteristics of IZ households, tells program administrators and elected officials if the IZ program is serving who it is supposed to serve and what aspects of the IZ program aren't working as intended to fix through revision.

Monitoring and data collection was a major weakness in the IZ programs we studied

- Lack of funding for and lack of clarity about the oversight of developers' and property managers' ongoing compliance with IZ
- Lack of dedicated funding within IZ policies for government administrators to collect data
- Diffuse administrative structure whereby property managers (rather than a single city department) qualify IZ residents by income and send (or do not send) annual reports about the recipients to city officials, using their own report formats and with no expectation of audits
- No jurisdiction regularly tracked demographic information and sales prices or rents across successive occupants of IZ units; not tracking price of IZ vs market rate rents/sales to establish the difference
- All 11 jurisdictions kept IZ address lists, but not all were complete

Recommended fix: Include funding stream for oversight + include forms for data reporting and specified frequency and method of collection within IZ statutes.

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Thank you!

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