

Adapting the Montreal Inclusionary Housing Strategy to Emerging Challenges

Lessons from case studies



Kathleen A. Day

School of Urban Planning
McGill University
Montréal, Québec
Canada

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Dr. Ray Tomalty
Martin Wexler

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Abstract

Inclusionary housing is a tool that combines elements of housing policy and land use planning in order to enlist private developers in the construction of affordable housing. It consists generally of leveraging private market activity to produce below market rate housing. Recently, a growing affordability gap in major urban centers has caused more large cities to turn towards inclusionary housing as a way to ensure that new residential development does not result in the exclusion of low- and moderate-income residents.

The present paper analyzes inclusionary housing through the lens of the Montreal context. The Montreal Inclusionary Housing Strategy (MIHS), officially adopted in 2005, uses a voluntary and negotiation-based system to incite developers to include two types of “affordable” housing in large residential projects: “social” and “community housing” units, which are developed by the non-profit housing sector and removed from the private market; and units to be sold privately but at a price below an affordability threshold. The Strategy has been successful in that it has resulted in the negotiation of 8,000 social, community and private affordable inclusionary units in 31 projects. However, the MIHS has already undergone some changes since 2005 and is likely to continue to evolve in response to emerging challenges.

Focusing on the private affordable ownership component of the MIHS, this paper first identifies two major issues that threaten the long-term effectiveness of this relatively new and evolving Strategy, namely: 1) the small size of private affordable homes, which renders those units inappropriate for families and 2) the lack of mechanism for ensuring continued affordability of private affordable units.

The paper then draws from case studies of two large U.S. cities with inclusionary housing to analyze potential responses to these challenges. San Francisco’s Residential Inclusionary Affordable Housing Program (RIAHP) is analyzed as an approach to the challenge of providing affordable for-sale housing for families through inclusionary housing. Chicago’s Affordable Requirements Ordinance (ARO) is then examined as a unique system for monitoring long-term affordability of for-sale inclusionary housing through a separate, city-sponsored organization.

Finally, this paper draws inspiration from an analysis of the case studies to make recommendations to the City of Montreal regarding the private affordable ownership component of the Montreal Inclusionary Housing Strategy.

Résumé

L'inclusion en logement regroupe des éléments de politique de logement et de l'usage du sol afin d'inciter les promoteurs privés à participer à la construction de logements abordables. Il consiste généralement à faire levier sur le marché privé pour produire des logements à prix inférieurs à ceux du marché. Ces dernières années, due à l'écart grandissant entre les prix du marché et le pouvoir d'achat des ménages dans les grands centres urbains, un nombre croissant de grandes villes se tourne vers l'inclusion en logement comme moyen d'assurer que le développement résidentiel n'exclut pas les ménages à revenu faible et moyen.

Le présent travail analyse l'inclusion en logement à travers la lentille du contexte montréalais. La Stratégie d'inclusion en logement de la Ville de Montréal, mise en œuvre en 2005, emploie un système volontaire et basé sur la négociation afin d'inciter les promoteurs à inclure deux types de logements « abordables » dans les grands projets résidentiels : le « logement social » et « communautaire, » réalisé par le milieu associatif et mis à part du marché privé; et les logements privés vendus à des prix en dessous d'un seuil d'abordabilité correspondant aux moyens d'un ménage à revenu modique. Jusqu'à présent la Stratégie a été un succès dans la mesure où l'inclusion de 8,000 logements sociaux, communautaires, et privés abordables a été négociée dans le cadre de 31 projets. Cependant, la Stratégie a déjà été sujette à plusieurs changements et continuera certainement à évoluer en réponse aux défis émergents.

Ciblant le volet propriété privé abordable de la Stratégie d'inclusion de Montréal, ce travail identifie dans un premier temps deux défis importants qui menacent l'efficacité à long terme de cette politique nouvelle et en évolution, soit : 1) la petite taille des propriétés privées abordables ne permettant pas un espace suffisant pour les familles, et 2) le manque de mécanisme pouvant assurer la pérennité de l'abordabilité des logements privés.

Le travail s'appuie dans un deuxième temps sur l'analyse de deux cas d'étude de politiques d'inclusion répondant à ces défis dans deux grandes villes américaines. La politique « RIAHP » de San Francisco fait l'objet d'une analyse de sa réponse au défi de fournir des logements abordables pour familles à travers l'inclusion. La politique « ARO » de Chicago sert d'exemple d'un système de suivi de l'abordabilité à long terme de logements d'inclusion à travers un organisme indépendant mais bénéficiant du soutien de la Ville.

Enfin, ce travail s'inspire des deux cas d'études pour formuler des recommandations pour la Ville de Montréal concernant le volet propriété privé abordable de la Stratégie d'inclusion en logement de Montréal.

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List of Abbreviations

ADM	<i>Agglomération de Montréal, also known as the Island of Montreal</i>
AMI	<i>Area median income</i>
AP	<i>Area Plan</i>
ARO	<i>Chicago Affordable Requirements Ordinance</i>
BMR	<i>Below market rate</i>
CLT	<i>Community land trust</i>
CCLT	<i>Chicago Community Land Trust</i>
CPAN	<i>Community Partnership for Affordable Neighborhoods</i>
EN	<i>Eastern Neighborhoods</i>
ENAP	<i>Eastern Neighborhoods Area Plan</i>
HED	<i>Chicago Department of Housing and Economic Development</i>
HOA	<i>Homeowners Association</i>
HUD	<i>U.S. Department of Housing and Urban Development</i>
IH	<i>Inclusionary housing</i>
MIHS	<i>Montreal Inclusionary Housing Strategy</i>
MOH	<i>San Francisco Mayor's Office of Housing</i>
NHFC	<i>New Homes for Chicago</i>
RIAHP	<i>San Francisco Residential Inclusionary Affordable Housing Program</i>
SHDM	<i>Société d'habitation et de développement de Montréal</i>
VDM	<i>Ville de Montréal</i>

Chapter 1

Introduction

Inclusionary housing is a tool that combines elements of housing policy and land use planning in order to enlist private developers in the construction of affordable housing. It consists fundamentally of leveraging private market activity to produce below-market rate housing. This tool emerged in the 1970s in the United States in response to housing discrimination and has spread to hundreds of U.S. municipalities as well as to a small number of municipalities in Canada. Recently, a growing affordability gap in major urban centers has caused more large cities to turn towards inclusionary housing as a way to ensure that new residential development does not result in the exclusion of low- and moderate-income residents.

The present paper analyzes inclusionary housing through the lens of the Montreal context. The Montreal Inclusionary Housing Strategy (MIHS) was officially adopted in 2005. The Strategy, which is currently implemented on a voluntary basis and subject to negotiation, has already undergone some changes and is likely to continue to evolve in response to emerging challenges. Indeed, many inclusionary housing policies in large U.S. cities have changed over time in response to the local context and are more effective as a result. This paper first identifies issues that threaten the long-term effectiveness of this relatively new and evolving Strategy. The paper then draws from case studies of other large cities with inclusionary housing to analyze potential responses to these challenges. Ultimately, this paper draws inspiration from analysis of case studies to make recommendations to the City of Montreal.

1.1 Definition of Inclusionary Housing

Housing policies or programs that “rely upon the development regulations and approval process to have private developers provide some portion of the housing within their new market projects as affordable housing” are known as “inclusionary housing” (IH) (Wellesley Institute, n.d.). This term is often used interchangeably with “inclusionary zoning,” which refers to policies that require inclusion of affordable housing specifically through zoning (Mallach, 2009). Different municipal contexts yield inclusionary housing policies that vary in terms of their guiding objectives and system for implementation. Broadly speaking, however, IH aims to increase housing affordability and to promote social mixing through housing by leveraging the private housing market. A more in-depth review of literature examines these guiding principles later in this paper.

Theoretically, inclusionary housing serves to shift the burden of paying for affordable housing from the public to the private sector. Inclusionary housing is often presented as a way for municipalities to address the demand for affordable housing while using fewer public resources, rendering such policies especially appealing in the context of increasing scarcity of public funds.

Although some of the discourse surrounding inclusionary housing stresses its ability to create affordable housing through the private sector, it is essential to recognize the limits of such policies. Inclusionary housing policies fit within a broader system of delivery of social and affordable housing and serve to enhance, rather than replace, existing housing policies and programs.

Nevertheless, it is particularly interesting to analyze inclusionary housing policies because they not only complement other housing policies but also reflect and shape the broader framework of planning regulations. Inclusionary housing aims not just to address residual housing needs but also to actively shape the private housing market in an effort to promote more equitable urban development.

1.2 Characteristics of inclusionary housing policies

Inclusionary housing policies vary widely, although each aims to encourage or require inclusion of affordable housing units in private market residential projects through the following basic process:

- 1) The developer seeks to construct a residential project meeting certain conditions that **trigger** the inclusionary housing policy
- 2) The developer and municipality reach an agreement concerning the inclusion of units that responds to objectives set in the inclusionary policy. This may include:
 - a. Affordability for households of a **targeted income**
 - b. Setting aside of units of a certain type or tenure
- 3) The developer may opt for **compliance alternatives**, such as an in-lieu fee
- 4) Project approval
- 5) Project construction
- 6) **Delivery** of inclusionary units

This section offers an overview of the technical components that make up the provisions of different policies.

1.2.1 Voluntary vs. mandatory policies

Although the vast majority of U.S. IH policies are mandatory, requiring developers by law to include a certain proportion of below market rate units in private residential projects (Innovative Housing Institute, 2010), some inclusionary policies are voluntary. Typically, voluntary policies rely on a system of “incentive-based negotiated approval” (Gladki & Pomeroy, 2007), which is common in Canadian cities with IH policies. In this model, inclusion of below market rate units in a private development is the result of negotiations between the developer, the municipality, and in some cases, such as Montreal, affordable housing groups.

1.2.2 Triggers

Rather than applying to all residential development, IH policies are typically triggered under certain conditions. For instance, a private market developer is commonly encouraged or required to include below market rate units if the private residential development is larger than a certain threshold, which can vary from as few as one and as many as 200 units. The threshold for over two thirds of U.S. jurisdictions with inclusionary housing is less than 25 units (Innovative Housing Institute, 2010). IH policies may also apply to projects that receive city-owned land below market value or other municipal support, and to projects that require different types of rezoning or zoning variances.

1.2.3 Cost offsets

Most IH policies are designed to include provisions to offset, to some degree, the cost to the developer of including below market rate units in a residential project. Policies most commonly offer density bonuses in exchange for inclusion, although they may also offer to expedite the permit process, to waive fees, or to relax regulations such as minimum parking requirements. In rare cases, some large U.S. cities with strong housing markets have recently

adopted IH policies that do not include provisions to offset increased developer costs (Brunick, Goldberg, & Levine, 2003)

1.2.4 Alternative compliance options

In keeping with the goal of inclusionary policies to integrate market and affordable housing, the policies usually require or encourage construction of affordable units on the same site as the market rate units. In some cases, however, municipalities offer the private developer the option of building inclusionary units off-site or of paying an in-lieu fee instead of directly contributing land or setting aside units. In the case of the in-lieu fee option, funds are dedicated to supporting affordable housing in some form. The required proportion of inclusionary units is generally higher if the developer opts to build inclusionary units off-site, and in some cities a developer must build off-site inclusionary units within a certain distance of the master project.

The provision of compliance alternatives, such as the option to build units off site or to pay a fee in lieu of constructing units, simultaneously addresses some of the concerns of developers and generates resistance from housing advocates who argue that such options defeat the purpose of a policy meant to promote social mix. Not only do compliance alternatives allow the development of homogenous residential development projects, but the funds generated by an in-lieu fee are difficult to monitor given the wide range of projects that may benefit from these funds (Mallach & Calavita, 2011). There is also some concern that in-lieu fees represent a much lower cost to developers, and a correspondingly lower potential for adding to the stock of affordable or below market rate units.

1.2.5 Income target

IH policies vary in terms of the income groups targeted for the below market rate units set aside as part of an inclusionary housing policy. Households are targeted for inclusionary units on the basis of their income in terms of its percentage of area median income (AMI). Broadly, units can be categorized as follows:

- *Affordable 'for-sale' or 'ownership units'*: typically targeted to moderate-income (AMI $\pm$ 15%) homebuyers, especially those buying a home for the first time.
- *Affordable rental units*: targeted to lower-income groups (<85% AMI, usually lower).

In some cases, inclusionary housing policies may serve the needs of low and very low-income households through means other than the construction of inclusionary units. For instance, inclusionary projects in Montreal typically include social housing and/or community housing units that are directly subsidized by the public sector with the help of a land contribution by the private developer. In this paper, only below-market or affordable units built and set aside by the private developer are considered to be "inclusionary units." The price thresholds for affordable housing vary depending on local housing market conditions and

needs. Generally, in the U.S. and Canada a housing unit is considered affordable when the occupying household pays no more than thirty percent of gross income towards housing costs (see CMHC (2012) and HUD (2013)). When households pay more than this threshold, they are considered to be “housing costs burdened” (U.S.) or “shelter-cost burdened” (Canada). Housing affordability is determined based on the income necessary to rent or to buy a home. Policymakers use targeted income brackets to set sales price or rent thresholds, above which a unit is considered unaffordable. Therefore the term “affordable” is relative to the income of the household that occupies the housing unit.¹

Several key terminological distinctions must be made when discussing inclusionary housing and the units such a policy is meant to produce. Generally, as discussed earlier, inclusionary housing aims to produce housing units that are more affordable than those produced by the private market acting alone. Hence, in some cases, IH will yield units that are “below market rate,” or “BMR,” meaning that their price is lower than what it would be if it were sold without restrictions on the private market. However, in markets where prices are very high, below market rate units are not necessarily “affordable” for many households. Conversely, given a less pricey private market, units that are “affordable” to target households are not necessarily sold at below market rate (See Figure 1).

1.2.6 Set-aside and delivery of inclusionary units

IH policies typically require private developers to build and set aside units that are simply sold at a price below market value. In this case, the municipality simply enforces the inclusionary requirements and manages the affordable units throughout the required period of affordability. In some cases, for instance in Montreal, inclusionary housing policies are meant to yield publically subsidized social housing that is built by the non-profit sector on land given or sold at below-market value by the private developer.

¹ Here it is important to note a key terminological difference between Canada, where “affordable housing” simply fits price criteria, and the United States, where the same term is also used euphemistically to refer to housing units that are both subsidized by the public sector and set apart from the private market; such housing is referred to as “social housing” in Canada. This study uses the terms “affordable” and “below-market rate” to designate housing units that are sold (and in many cases maintained) at below market value, although they are not necessarily decommodified, or removed from the market. I use the term “inclusionary unit” to refer to affordable or below-market rate units produced through inclusionary housing.

Figure 1: Difference between "affordable" and "below-market rate" units

Example:

A household earns the equivalent of median area income. They can afford to purchase a home at \$150,000.

Market A: private market is pricey	Market B: private market is affordable
Median price for a home in Market A is \$350,000.	Median price for a home in Market B is \$150,000.
An inclusionary housing policy yields units that are below market rate at \$200,000.	An inclusionary housing policy yield units that are affordable to median-income households at \$150,000.
Inclusionary units remains unaffordable for households earning the equivalent of area median income, although their price is below market and it is technically "more affordable" to more households.	Inclusionary units, while guaranteed to be affordable to median-income households, are not sold at below market rate.

1.3 Origins of Inclusionary Housing

Inclusionary housing policies were first developed in the United States in the 1970s to combat discriminatory housing practices that resulted in racial and class segregation, referred to broadly as "exclusionary zoning." In fact, the term "inclusionary housing" responds directly to such practices (Mallach & Calavita, 2011).

A housing policy principle known as "fair share housing" emerged in parallel with inclusionary housing during the 1970s as a way to counter the negative effects of exclusionary zoning by requiring municipalities to bear a fair share of the responsibility of providing affordable housing. Fair share housing allocation policies aim to promote equity for the benefit of not only low-income households but also of municipalities. Following the U.S. urban riots of the 1960s, four national and presidential commissions called for a more even spread of subsidized housing (Goetz, Chapple, & Lukermann, 2005, p. 249). In response, some states mandated municipalities to create Fair Share Housing Plans, in which they showed how they would accommodate their "fair share" of subsidized housing so as to avoid having these units concentrated in the same older cities. Although this practice has not spread widely in the U.S. (Connerly & Smith, 1996), it has had an enormous impact on the spread of inclusionary zoning in states such as New Jersey, where the famous Mount Laurel I and II cases that spawned the practice, and California, where more than 100 municipalities have adopted inclusionary housing policies.

U.S. municipalities have adopted inclusionary housing for reasons that vary by context and that have changed considerably over time. Although today inclusionary housing is often presented as a low-cost tool for creating affordable housing, this argument emerged only in the 1980s in response to cuts in federal funding for affordable housing construction (Mallach, 2009). The 1990s saw a strong increase in the number of U.S. municipalities adopting inclusionary housing policies (ibid). This was almost certainly due to the need to compensate for federal funding cuts, although the increase in housing prices and the growing popularity of inclusionary housing—the so-called “bandwagon effect”—also played an important role in the spread of such policies (Innovative Housing Institute, 2010). According to (Calavita, 2006), decreased housing affordability is the main reason for the “renewed interest” in inclusionary housing in the U.S. since the early 2000s. The latest generation of policies, especially in major cities, has been the result of strong local activism (Mallach & Calavita, 2011; Schuetz, Meltzer, & Been, 2008; Merriam, Brower, & Tegeler, 1985). I return to the topic of urban inclusionary housing policies in Section 1.4.

While the renewed interest in inclusionary housing policies has been in large part due to increased housing costs corresponding to the housing boom of the early 2000s, as a result of the housing crisis of the late 2000s, the construction of social and affordable housing units in the U.S. has slowed down considerably. However, despite fears that a downturn in the private construction industry would lead to the demise of inclusionary housing policies, in fact inclusionary housing policies were discontinued in only eight out of 400 municipalities with IH (Hickey, 2013). Hickey (2013) has attributed the resilience of so many IH policies to a variety of factors, including: strong local support for inclusionary housing, the relative strength of many housing markets with IH, the flexibility of policies, and in some cases strong state-level policy support. Nevertheless, inclusionary housing policies in a number of cities have fallen short of attaining their production goals due to the economic crisis of the late 2000s.

1.4 Urban Inclusionary Policies

Inclusionary policies originated in affluent U.S. suburbs as a way to reverse the effects of exclusionary zoning; while this tool increased in popularity from the 1970s on, it was limited to smaller municipalities until the late 1990s (Brunick, Goldberg, & Levine, 2003). Recent years have seen an increase in the number of large cities adopting inclusionary policies. Major cities have adopted such “urban inclusionary policies” (Mallach, 2009) in a more recent period during which inclusionary policies have been motivated mainly by the need to address a shortage of affordable housing (Calavita, 2006).

The increase in urban inclusionary policies has also been attributed to the “resurgence of many urban centers as vibrant locations for new investment” (Brunick, 2004), in two ways. First, as Brunick (2004) and Brunick et al (2003) explicitly argue, renewed investment in urban

centers has led to an increased need for affordable housing due to rising housing prices. Inclusionary housing presents a practical response to increased need for affordable housing in a context of decreased federal funding (Calavita, 2006; Brunick, 2004; Mallach, 1984).

Despite the spread of inclusionary housing to large cities, urban inclusionary policies present new challenges, summarized by Calavita (2006, p. 6): “Born to open up the suburbs to affordable housing, IH becomes more problematic when applied to infill sites or to redevelopment.” Developers find it more difficult to realize inclusionary projects due to the higher cost of land and construction in urban centers, which is why set-asides are typically lower in large cities (Mallach, 2009, p. 296). In addition, developers experience difficulty achieving economies of scale for infill or small projects, which is why in large urban centers it is important that IH policies allow private developers the option to pay in-lieu, as well as flexibility more generally (Calavita, 2006). Significantly, one of the most successful urban inclusionary policies has been implemented mainly in greenfield development in San Diego’s Future Urbanizing Area (FUA) (Brunick, Goldberg, & Levine, 2003).

As mentioned earlier, later generations of urban inclusionary housing policies have often been the result of local political pressure from housing advocates. Unlike in smaller municipalities, large cities benefit from a well-developed “non-profit housing development infrastructure” (Mallach, 2009) that has played an important role in the provision of low-income housing in the past 20 years. (Calavita, 2006). The affordable housing advocacy sector has been instrumental in not only passing but also in shaping urban inclusionary housing policies, as I will explore in later sections of this paper in the case of Chicago and San Francisco.

1.5 Legal framework

In many cases adoption of inclusionary housing policies reflects state-level mandates concerning the availability of affordable housing. For example, in New Jersey the landmark State Supreme Court cases of *Mt. Laurel I* (1975) and *Mt. Laurel II* (1983) resulted in the establishment of a statewide mandate that municipalities accept their “fair share” of affordable housing (Mallach, 2009). The State of California mandates that all municipalities include a housing component in their General Plans (Calavita, 2006; Brunick, 2004). Hundreds of municipalities in California and New Jersey have adopted inclusionary housing policies.

1.6 Inclusionary Housing in Canada

Whereas the legislative framework in the U.S. has been conducive to the spread of inclusionary housing, Canada offers a “less-than-fertile environment” for such policies (Mallach & Calavita, 2010, p. 86). In the 48 U.S. states that have the power to grant “home rule” to local

municipalities, some cities enjoy broad powers to regulate land (Mallach & Calavita, 2011; Hall, 2005). Those cities in the U.S. that are not granted home rule by the state are governed by “Dillon’s rule,” whereby municipalities have powers only explicitly granted to them by the state (Hall, 2005). “Dillon’s rule” is similar to the Canadian system, wherein municipalities are also considered to be ‘creatures of the Province.’ Home rule does not exist in Canada (Mallach & Calavita, 2010). Therefore, municipalities do not have the power to require developers to include affordable housing in their land development projects if this power is not explicitly granted to them by the Province. Only British Columbia, through Section 903 of the Local Government Act, authorizes municipalities to impose inclusion as a condition of rezoning (Metro Vancouver Policy and Planning Department, 2007).

Inclusionary housing policies, which are far less common in Canada, often use indirect methods such as development agreements. Three major Canadian cities have adopted inclusionary policies: “Income mix zoning” adopted in Vancouver, British Columbia in 1988; the “Large Sites Policy” adopted in Toronto, Ontario in 2006; and the Inclusionary Housing Strategy for Large Residential Projects adopted by the City of Montreal, Quebec in 2005. Unlike in the United States, inclusionary housing policies are not considered to be “part of the ‘normal’ toolkit of affordable housing strategies” in Canada, except in the case of British Columbia Canada (Mallach & Calavita, 2010, p. 86). Although the City of Montreal adopted a de facto inclusionary policy in 2005, it remains one of a few “test” policies that may or may not serve as a model for spreading inclusionary housing policies (ibid).

1.7 Purpose

The Montreal Inclusionary Housing Strategy (MIHS) has generated approximately 7,600 social, community and private affordable inclusionary units since the development of the first inclusionary project in Montreal a few years prior to the adoption of the policy (Ville de Montréal, 2013). Despite the relative success of the Strategy to date, several challenges threaten the relevance and effectiveness of the MIHS in the long term.

The present paper seeks to identify challenges in the Montreal Inclusionary Housing Strategy, focusing on the development of private affordable ownership units, and selects two issues for further study. I analyze one case study of a North American urban inclusionary housing policy for each of the two challenges in order to shed light on how each issue may be addressed through inclusionary housing. The case studies also serve as platforms for analyzing the potential and the limitations of inclusionary housing through the lens of these specific implementation issues. Ultimately, this study will result in the formulation of recommendations to the City of Montreal Housing Division to address these challenges.

1.8 Scope

1.8.1 Urban inclusionary housing policies²

According to a recent survey, no fewer than 400 inclusionary housing policies are in effect in the United States alone (Hickey, 2013). Rather than conducting a survey of all IH policies that have addressed the two implementation issues chosen for further study, this paper focuses on two cases of policies where the broader political and planning context is comparable to that of Montreal: Both Chicago and San Francisco are large urban centers that have adopted inclusionary housing policies relatively recently in an effort to address the need for affordable housing. Although it is true that many smaller municipalities provide for the long-term affordability of inclusionary units or have policies that include a provision to encourage construction of units with two bedrooms or more, the social, political, and historical context of inclusionary housing in smaller municipalities is not comparable to Montreal. Given that this paper analyzes not simply the implementation details of each inclusionary policy but also the ways in that the urban context has shaped each policy, comparison with these two cities is useful.

1.8.2 Private affordable ownership units

This study focuses on the production of private affordable ownership units rather than on the delivery of social or community housing units, which are developed by the non-profit housing sector using public subsidies. It is important to acknowledge that this represents a rather narrow focus. Even though inclusionary housing typically intervenes in the private market, in some cases, including Montreal, such policies may also be related to the delivery of social housing. Inclusionary housing in Montreal does not require developers to produce social or community housing directly but rather creates the opportunity for non-profit developers to locate such units in an inclusionary project. To that end, the MIHS has been successful in locating social housing units that permanently benefit low and moderate income households within mixed-income residential projects.

However, the comparison of social housing delivery systems across different municipal, provincial and national contexts presents too many challenges to address within the scope of this paper. Furthermore, the production of private affordable inclusionary ownership units through the MIHS merits closer analysis, as this component of the policy has received relatively little attention, enjoyed limited political support, and is not as closely monitored as the social housing component.

² Also referred to as “downtown inclusionary zoning” (Merriam, Brower, & Tegeler, 1985).

1.9 Structure of this paper

Chapter 2 presents the purpose, research questions, methods, and scope of this paper. Chapter 3 consists of a review of literature in which I give an overview of the origins and guiding principles of inclusionary housing. I focus in particular on how such policies have been used more recently in large cities.

In Chapter 4 I present a study of the Montreal Inclusionary Housing Strategy, with a focus on the objectives and implementation of the private affordable component of the MIHS. Several challenges are identified which threaten the long-term viability of the Strategy, two of which are chosen for the future study, namely: the small size of private affordable units and the lack of mechanism for ensuring continued affordability of private affordable units.

Chapters 5 and 6 each present a case study of an urban inclusionary housing policy that addresses the two challenges identified in the case of Montreal: San Francisco's Residential Inclusionary Affordable Housing Program, which includes a provision to promote construction of a mix of unit types; and Chicago's Affordable Requirements Ordinance, which produces affordable ownership units that are managed and monitored by a municipally sponsored body called the Chicago Community Land Trust.

Implications of the case study findings for the Montreal context are discussed in Chapter 7. Finally, Chapter 8 contains recommended interventions for the policymakers with the City of Montreal.

Chapter 2

Research Questions and Methodology

This Chapter presents research questions that are addressed through several phases and methods of research described in the final section of this Chapter.

2.1 Research Questions

This paper seeks to identify strategies to improve the implementation of the Montreal Inclusionary Housing Strategy as well as to address challenges that threaten the long-term viability of the Strategy. I first ask: What are the main issues that threaten the long-term viability of the private affordable ownership component of Montreal's Inclusionary Housing Strategy?

I then pose the following questions: How do other cities address these challenges through inclusionary housing or through complementary policies? How successful is their approach to these challenges? What are the limitations of the cities' inclusionary housing policies in addressing these issues?

2.2 Methodology

The research was conducted in three phases.

Phase 1: Analysis of the Montreal Inclusionary Housing Strategy

Findings in this report respond to two sets of guiding research questions. First, I drew on policy documents published by the City of Montreal and by housing organizations, as well as on semi-structured interviews with policymakers, to draw out the main challenges of the Montreal Inclusionary Housing Strategy. I conducted three in-person interviews of 30 to 60 minutes. I obtained and verified information concerning the MIHS and its results from a policy expert at the Housing Department of the City of Montreal. In addition, I spoke with a staff person at a Montreal borough that has recently adopted an Action Plan related to the MIHS in order to understand how the borough responded to limitations of the policy. Finally, I spoke with a staff person at the Société d'habitation et de développement de Montréal (SHDM) who played a key role in the development of the SHDM's AccèsCondo affordable condominium program in order to gain an understanding of how the program fits with the MIHS. In all cases, I discussed with informants the impact of the MIHS and the feasibility of implementing various changes to it. Based on a review of relevant documents and interviews, I then selected a small number of challenges to address through case study analysis. Due to time and resource constraints, I limited my selection of issues for further study to two. The use of only two case studies, rather than a survey of all IH policies that address the two implementation challenges, allows for a more in-depth analysis and more detailed recommendations for the City of Montreal.

Phase 2: Case Study analysis

The case studies were based on analysis of a variety of documents and reports as well as on a total of ten semi-structured telephone interviews lasting 30 minutes to an hour, with follow-up by correspondence in many cases. I used City policy documents, academic and policy reports, census and real estate data, and literature from housing advocacy organizations to analyze local housing and political context, as well as to analyze the inclusionary housing policies themselves.

I conducted interviews with a total of three City staff members responsible for administering inclusionary housing policies, including one at the Chicago Department of Housing and Economic Development (HED) and two at the San Francisco Mayor's Office of Housing (MOH). Through these interviews I obtained information concerning the implementation and production of IH policies. Discussions with practitioners also centered more broadly on policy objectives, housing affordability, challenges to implementation, and directions for future changes to each policy. The Chicago HED staff person is also the Executive Director of the Chicago Community Land Trust (CCLT).

Other practitioners included a staff person at the San Francisco Human Services Agency and an urban planner at the San Francisco Planning Department. Interviews with these informants centered on complementary policies to the San Francisco IH policy. I also interviewed two members of the Chicago Community Land Trust (CCLT) Board of Directors, which plays a role in the implementation of Chicago's IH policy. During these interviews I discussed with informants the history, goals, challenges, and general operation of the CCLT.

Finally, I interviewed affordable housing advocates, including one in San Francisco and four in Chicago, two of which are also the CCLT Board members discussed above. Each informant represents an organization that advocates for affordable housing. I discussed with informants issues of housing affordability in each city, the history of inclusionary housing and the objectives of the affordable housing sector concerning inclusionary housing.

For all interviews, quotes are reported anonymously per agreement with the respondents.

Phase 3: Feasibility analysis of possible interventions

The final phase of the project consists of assessing the feasibility of applying a range of policy interventions in Montreal, based on the case study analysis. I analyze the advantages, disadvantages, feasibility and challenges to implementation the interventions, including three possible strategies to address each of the two challenges analyzed in this paper.

Based on this analysis, I make a set of recommendations concerning inclusionary housing in Montreal.

Chapter 3

Review of Literature

A literature review of the variety of inclusionary housing policies around the world reveals three broad principles that guide such strategies: to increase housing affordability, to leverage private housing market activity to create below market rate housing, and to promote mixed-income neighborhoods. These themes are given varying degrees of importance in the articulation and implementation of inclusionary housing policies, depending on the political and historical context of a city.

3.1 Increasing housing affordability

Inclusionary housing serves fundamentally to improve access to housing, which is “a critical element of the ‘food, clothing and shelter’ triumvirate” of the “necessities of life” (Bratt, Stone, & Hartman, 2006). Households have a physical and social need for adequate and affordable housing that the private market cannot always address and that therefore require interventions by the public sector. In addition to enforcing regulations concerning the quality of construction and housing, housing policy concerns itself with increasing access to housing that is affordable. Housing affordability is essential because it frees up resources that are necessary to address other needs. This is particularly important for households with little means, for whom housing costs tend to represent a large proportion of income.

The availability of affordable housing has important economic, ecological, and quality-of-life implications for municipalities. The economic health of cities depends on the availability

of affordable housing, the lack of which may discourage investment if employers believe they will have to pay higher salaries to attract employees to make up for higher housing prices (Tomalty & Alexander, 2006, p. 13). Conversely, households unable to afford housing in the city are likely to purchase homes outside of the urban core, where land is less expensive. This results in overconsumption of land through urban sprawl, which also encourages car dependency and increases traffic congestion. Indeed, inclusionary housing is sometimes presented as a way to address workforce housing needs (Brunick, Goldberg, & Levine, 2003).

The creation of affordable housing, especially through inclusionary housing, is a central element of a cluster of planning objectives known as Smart Growth.³ Advocates of Smart Growth often cite the importance of having a “range of housing choices” (Tomalty & Alexander, 2006, p. 3), referring to both housing type and level of affordability. Indeed, as Porter (2004, p. 3) argues, affordable housing is an “essential ingredient of livable communities,” even though in practice creation of affordable housing is less widely cited by advocates as an argument for implementing a Smart Growth-inspired regulatory regime (Downs, 2005; Voith & Crawford, 2004). In fact, critics point the risk of increasing housing costs by restricting growth. Inclusionary housing policies are thus often integrated into Smart Growth strategies as a way to mitigate decreasing housing affordability.

For the most part, arguments against inclusionary housing stem from concerns about the negative externalities—including, paradoxically, the increase in housing prices—of imposing what many argue is an effective tax on private development. Some of the strongest criticism of inclusionary housing comes from economists who, drawing from classical economic principles of supply and demand, warn of inefficiencies that could result from imposing an effective tax on developers (Knapp, Bento & Lowe, 2008; Powell & Stringham, 2004; Clapp, 1981; Rusk, 2008; Altus Clayton, 2008). In response to an effective tax, developers will theoretically pass on extra costs to land owners or even to consumers, arguably defeating one of the major purposes of inclusionary housing (Powell & Stringham, 2004; Altus Clayton, 2008). Some warn that imposing extra costs on developers through inclusionary housing requirements might ultimately cause the housing market to slow down as developers leave for more profitable markets (Rusk, 2008).

In fact, empirical evidence of the impact of inclusionary housing policies on local housing markets is mixed. The complexity of housing markets makes it difficult to accurately predict the behavior of the private market using microeconomic models, as many critics of inclusionary housing do (Rusk, 2008). Pro forma financial analysis reveals how, in practice, developers adapt to limits imposed by inclusionary policies (ibid). For instance, developers may pass on costs to consumers by building more cheaply while keeping prices constant. Such a result is problematic in that it indirectly decreases affordability by reducing the buying power of households. The

³ Although a universal definition of Smart Growth does not exist, the term refers to planning and growth management practices that tend to stress infill development, increased residential density, mixed uses and active transportation infrastructure, public transportation, and decreased negative externalities (Downs, 2005).

tendency in Montreal for developers to build smaller units to keep prices low is one of the two main issues analyzed in this paper (See Section 4.9.3 and Chapter 5.)

In any case, inclusionary housing policies are typically designed so as to avoid placing too heavy a burden on private developers. Many policies, though not all, include a cost offset provision that allows the developer to be compensated for the loss incurred by the inclusion of below-market units. Policies that do not include cost-offset provisions are typically either triggered by requests for regulatory change that create a “planning gain” or are in cities where the housing market is so strong that developers can recoup costs through the sale of market rate units (Brunick, 2004).

3.2 IH as a tool for leveraging the private market

Although inclusionary housing policies were originally adopted in affluent U.S. suburbs as a means to combat racial discrimination and exclusionary zoning, today IH is widely pitched as a tool for leveraging the private housing market to respond to the need for affordable housing (Calavita, 2006). Furthermore, a major guiding principle of recent efforts to push for inclusionary housing has been that new construction should address the need for both market rate and affordable housing units.

3.2.1 IH as a response to scarcity of public resources

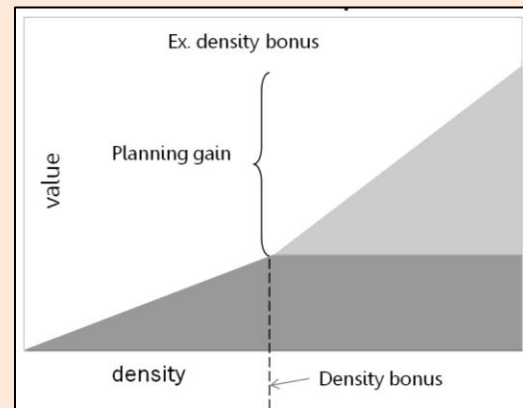
Municipalities in both the U.S. and in Canada have had to identify strategies to compensate for decreased public funding in the context of growing neo-liberalization (Wolfe, 1998; Mallach, 2009; Collin & Léveillé, 2003). The downloading of responsibility from higher levels of government to local authorities puts financial pressure on municipalities that still need to keep up with the provision of services; this is the case for Canadian municipalities, where federal and provincial transfers account for a shrinking proportion of municipal revenues (Collin & Léveillé, 2003).

Furthermore, the neo-liberal shift characterized by the transfer of responsibility towards local government and the increased reliance on the private market (Esping-Andersen, 1990) has cast municipalities into an entrepreneurial role, whereby they must not only provide necessary services to an urban population but must also promote growth and symbolic projects in order to remain competitive (Harvey, 1989). While the “new urban entrepreneurialism” reflected in policies such as inclusionary housing is in some ways a practical response to a broader neo-liberal context, as much of the literature points out (see for instance (Mallach, 1984; Wellesley Institute, n.d.), it is “speculative in execution and design and therefore dogged by all the difficulties and dangers that attach to speculative as opposed to rationally planned and coordinated development” (Harvey, 1989, p.7). In other words, inclusionary housing policies are particularly vulnerable to changes in the broader economic context. In fact, although most

inclusionary housing policies are still in place in spite of the housing crisis of the late 2000s, the production of affordable units through these policies has stalled. In addition, a small number of U.S. municipalities have discontinued inclusionary housing policies and at least one has relaxed its inclusion requirement as a result of the economic downturn (Hickey, 2013). Inclusionary housing simultaneously embodies, in a sense, the larger trend towards neo-liberalism and urban entrepreneurialism, and represents a practical response to this broad context.

Faced with decreased public funding, policymakers and inclusionary housing advocates point to the relatively low cost of leveraging private development to provide affordable housing, compared to the costs of construction and management by the public or non-profit sector. Often presented as a market-based tool, inclusionary housing relies on the recapture of “planning gain,” that is to say the increased property value created through changes in land use and zoning

Figure 2: Recapture of Planning Gain



regulation by the City (Calavita, 2006; Mallach & Callavita, 2010). Developers benefit from regulatory changes that allow more profitable development; this is the case when for instance a municipality permits higher density construction (see Figure 2). In order to address broader social needs, the municipality recaptures a part of the developer’s profits by requiring or encouraging them to sell some units at a price that is likely to be less than the market rate. This logic addresses somewhat the concerns about negative externalities described in Section 3.1, as it justifies the imposition of an effective tax on value created through regulation. Yet, as Mallach & Calavita (2010) note, Canadian inclusionary housing policies do not explicitly invoke the recapture of planning gain.

3.2.2 IH as a tool for promoting balanced development

Much of the literature on inclusionary housing concerns itself with the economic logic described above, and the extent to which the private sector is willing to absorb the cost of the subsidy implicit in IH policies. This focus is explained in part by the need to enlist the support of the development industry in order to successfully put in place an inclusionary housing policy.

Parallel to this, however, another important justification has served as a guiding principle for IH policies in increasingly expensive housing markets, especially in large cities: new development should respond to the need for both market rate and affordable housing units. This “balanced development” argument, closely tied with the issues of economic health and

“fair share” housing summarized earlier, has been crucial in contexts where a booming housing market threatens to price out many people. Davidoff (1985) argued as early as in the 1980s that downtown development would result in displacement of low-income residents and therefore warranted remedy in the form of urban inclusionary zoning:

It used to be the slum bulldozer that wiped out the poor and minorities from certain downtown areas that were in the path of redevelopment, but today it is the real estate tax shelter, the condominium conversion, the local tax abatements for rehabilitation, and the discretionary zoning approval for a high rise residential development. (p. 4)

A robust housing market, which may in many cases create the need for affordable housing policies such as inclusionary zoning, may also be a prerequisite for establishing an inclusionary housing policy. Brunick (2004) points out that San Diego succeeded in passing a demanding inclusionary housing policy in large part because an economic study projected that “developers can easily cover the cost of affordable units through the sale of market rate units” (Brunick, 2004). However it is not clear if this ability to compensate for the loss due to inclusion is an important factor in the successful production of inclusionary units in San Diego policy, or simply in the successful adoption of the policy. Indeed, as we saw earlier, confidence in the ability of a housing market to absorb the costs of including below-market units is essential to passing an inclusionary housing policy. It is telling that many large cities with successful mandatory inclusionary housing policies, such as Boston, San Francisco, San Diego, and Sacramento do not grant density bonuses for inclusionary projects; several of those cities offer very little cost offsets and San Diego, whose policy has yielded a relatively high number of affordable units (12,000) between 1992 and 2003, offers no offsets or incentives whatsoever (Brunick, Goldberg, & Levine, 2003). The lack of cost offsets in these cities is due in part to their dynamic housing markets. However, it is also true that IH policies in large cities tend to be less demanding (Mallach & Calavita, 2011, p. 34). The spread of inclusionary housing policies from affluent suburbs to large U.S. cities reflects a growing confidence in the economic vitality of large urban centers.

Even though inclusionary housing policies are shown to have yielded tens of thousands of affordable housing units (Innovative Housing Institute, 2010; Hickey, 2013; Knapp, Bento, & Lowe, 2008; Mukhija, Regus, Slovin, & Das, 2010; Rusk, 2008), it is essential to recognize the limitations of inclusionary housing policies. As stated earlier, advocates of inclusionary housing stress that such policies are relatively inexpensive as they leverage private market activity. However, it is not accurate to say that inclusionary housing policies have no cost. At the very least, all inclusionary housing policies require resources to effectively implement and monitor the program (Jacobus, 2007; Chapin-Rienzo & Gómez, 2004).

Furthermore, inclusionary housing policies cannot adequately replace public sources of funding for affordable housing. Inclusionary housing is not a panacea for addressing the need

for affordable housing, although it is an important tool for municipalities, especially as it aims to promote mixed-income development. Inclusionary housing policies have a limited potential to provide housing for low-income and very low-income households or for households with other special housing needs. Such units require subsidies that are much deeper than that can typically be provided implicitly by developers who build inclusionary projects. Therefore, in order to adequately address the range of housing needs, cities must often also leverage public resources, including higher-level government funding or city-owned vacant land (Brunick, 2007; Schuetz, Meltzer, & Benn, 2008). In some cases, social housing programs are used to augment the subsidy implicit in inclusionary housing, and vice versa.

3.3 Promoting mixed-income housing

Increasing mixed-income housing has historically been a guiding principle of inclusionary housing policies in the U.S. In Canada, “a central part of the social housing policies that prevailed from 1973 to 1985 was the concept of social mix—income-integrated projects designed to void the earlier problems of concentrated poverty inherent in public housing” (Van Dyk, 1995). Originally a tool for increasing income mix at the level of the municipality in the context of fair share housing allocation in the U.S., inclusionary housing policies go further, aiming to promote social mix at the neighborhood or even the housing project level. Most inclusionary policies aim to achieve the dual objectives of increasing the supply of affordable housing in the municipality and promoting income mixing at the neighborhood or housing project level.

The principle of income mixing emerged as a goal of urban planning as early as the 19th century, when several planners proposed that contact between people of different social classes could bring benefits to the poor and working class, who were considered to be culturally deficient (see Sarkissian, (1976) for a historical review). However it was the admission in the 1970s of the failure of numerous large-scale urban renewal initiatives, modernist public housing projects, and segregationist urban policies that brought renewed popularity to the concept of income mixing (Hulchanski, 1984). Inclusionary zoning emerged in direct response to exclusionary practices that resulted in segregation by race and class.

Although many policies aim to diversify housing at the neighborhood and city level, in practice the integration of economically diverse households through inclusionary housing is not guaranteed. In order to minimize negative externalities and legal challenges to unlawful takings, policies typically include compliance alternatives such the option to pay a fee in lieu of building affordable housing or to build units off-site. In doing so, however, an inclusionary housing policy may, at best, fail to promote mixed-income living. At worst, “it also could perpetuate the concentration of affordable housing in lower-income areas with sizable minority populations,”

for instance if in-lieu fees from developments in high cost areas of the city are applied in lower-cost areas (Mallach & Calavita, 2011, p. 39).

The balanced development argument justifies the setting aside of a portion of units in a project as affordable, rather than simply the collection of an in-lieu fee; inclusionary housing should serve to broaden access to the city and thereby to reverse the practice and effects of exclusionary zoning. Lerman (2006, p. 389), writing from a U.S. legal perspective, goes so far as to argue, “To fill the void left in the absence of a constitutional right to housing, inclusionary zoning works toward providing affordable living spaces in otherwise unaffordable areas.”⁴ Thus, inclusionary housing is meant to claim the city for residents with a diversity of incomes.

Ultimately, inclusionary housing policies are an imperfect tool for addressing a city’s need for affordable housing that must balance a complicated mix of economic, social, and political factors. Despite concerns, hundreds of municipalities in the United States and a small number in Canada have adopted inclusionary housing policies. Large cities have adopted inclusionary housing policies more recently and many, including the three policies analyzed in this paper, are evolving to respond to emerging challenges.

⁴ Neither the United States nor Canada guarantees the right to housing.

Chapter 4

Montreal Inclusionary Housing Strategy

This Chapter gives a summary of the Montreal Inclusionary Housing Strategy and discusses the policy's objectives and guiding principles as well as implementation process and results. Although this Chapter gives a broad overview of the policy, it focuses mainly on the private affordable ownership component of the Strategy rather than on the social and community housing components.⁵ Finally, I discuss several challenges that have arisen since the adoption of the MIHS in the early 2000s that threaten the long-term viability of the private affordable ownership component of the Strategy.

4.1 Context

Montreal, Canada's second most populous city and region⁶ and the cultural and economic capital of Quebec, became the second Canadian city, after Vancouver, to put in place an inclusionary housing policy. The Executive Committee approved the Montreal Inclusionary Housing Strategy (MIHS) in 2005, following a policy development process that started in 2003 (Ville de Montréal, 2005). The MIHS, which, contrary to mandatory policies elsewhere, is

⁵ Note that in the context of Montreal, "affordable housing" refers generally to units that are priced below an affordability threshold, and includes both rental and ownership units. This paper concerns itself principally with privately owned affordable condominiums developed as part of inclusionary projects.

⁶ Population: 1.7 million for the city of Montreal in a metropolitan region of 3.8 million (Statistics Canada, 2012). Unless otherwise indicated, "Montreal" in this paper refers to the City of Montreal as defined since the 2006 de-merger (See Appendix 2 for map).

implemented through an “incentive-based negotiated approvals” system (Gladki & Pomeroy, 2007), joins together a wide variety of policy objectives as well as housing delivery and subsidy programs. The Strategy is unique in that, rather than aiming to simply leverage the private sector to create more affordable housing, it aims to mobilize existing City housing programs to promote residential inclusion in large projects. Consequently, the MIHS can be thought of as the consolidation of existing housing programs and policies, applied to large inclusionary projects.

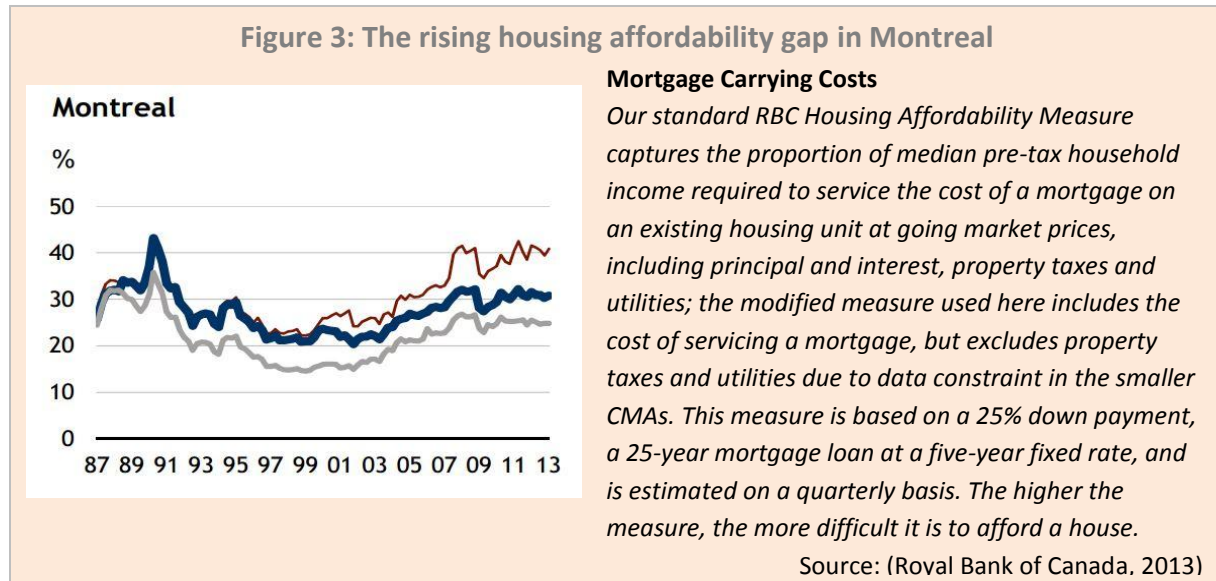
The MIHS was developed in response to a critical need for affordable housing resulting from the private market’s failure to keep up with rising demand caused by strong economic growth in the late 1990s and early 2000s (Mallach, 1984; Drdla, 2010). The housing crisis of the early 2000s led the City to increase efforts to construct new social and community housing and, to a lesser extent, private affordable housing. In addition, the restructuring of the City and Island of Montreal in the early 2000s led to an increased interest in the principle of fair share housing across the island.⁷

The need for affordable housing persists. Household income in the Montreal region has not kept up with the increase in home prices in the region. Between 2006 and 2010, median family income in the region increased by 10% (Statistics Canada, 2012) and per capita income in the region increased by a mere 7% (City of Montreal, 2010). During the same period, median home sales price increased by 25% (Canadian Real Estate Association, 2013; See Appendix 11). In fact, from January 2005 to April 2013, the median price for new and existing homes in the Montreal area has increased by 54% (ibid).⁸ This trend suggests a growing affordability gap, further illustrated in Figure 3, and points to the need to explore methods of preserving affordability.

An inclusionary policy to encourage developers to contribute to the development of social and community housing was a logical policy orientation given the scarcity of City land, especially after the successful construction of thousands of social, community, and affordable units in the early 2000s. The Montreal Inclusionary Housing Strategy also responded to the emergence of mixed-income communities as a major housing policy goal, as it aimed to mix market with social and community housing at the level of large residential projects. The affordable ownership inclusionary unit component of the MIHS, which is the focus of this paper, reflects a broader goal of encouraging homeownership that predates the Inclusionary Strategy (See Section 4.3.4).

⁷ The Province of Québec merged all municipalities on the island of Montreal into one city in 2001, forming the borders of what is now the Agglomération de Montréal (ADM). In 2004, several boroughs held referenda which resulted in their de-merging from the City, resulting in the City of Montreal boundaries seen today (see Appendix 2). Mallach & Calavita (2010) draw a connection between the MIHS and the discourse of integration present in the debate surrounding the Montreal merger and de-merger.

⁸ Seventeen percent of homeowners were spending more than 30% on housing costs in 2005 (Statistics Canada, 2006).



Montreal's inclusionary housing strategy also reflects the broader urban policy and development context of Montreal (Mallach & Calavita, 2010). The MIHS was developed during a time of political restructuring in Montreal, in parallel with the adoption of the 2004 Montreal Master Plan following the island-wide merger. Although the MIHS is a citywide policy, it also requires implementation by the boroughs, which hold zoning and some key urban planning powers. Both the central City and individual boroughs may play a role in the negotiation of inclusionary projects. The fragmented political context of Montreal resulted in the policy's uneven implementation, discussed below in Section 4.9.

The MIHS was largely a City initiative, with input from a variety of members of the public, private, and non-profit sector. Social housing advocates also played an important role in shaping the policy, namely the guidelines to include a minimum of 15% social and community housing (Garipey & Gauthier, 2009). As I discuss below, the social housing sector is also often instrumental in negotiating individual agreements with developers. However, the private affordable component of the MIHS enjoys little support among housing groups and in fact has attracted criticism because such units are targeted to middle-income households while the social housing sector traditionally serves a lower-income constituency (Ville de Montréal Commission permanente du conseil municipal sur la mise en valeur du territoire, l'aménagement urbain et le transport collectif, 2007).

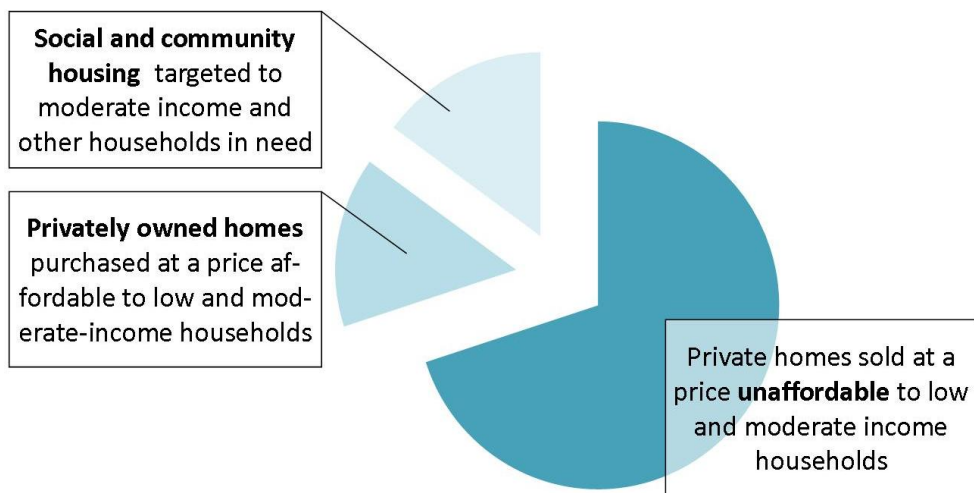
4.2 Montreal Inclusionary Housing Strategy⁹

The Montreal Inclusionary Housing Strategy (MIHS) is an “incentive-based negotiated approvals” (Mallach & Calavita, 2011) IH policy that targets large residential developments of 200 units or more for inclusion of 15% non-market social and community housing units and 15% affordable for-sale units. The MIHS has three stated objectives:

- *to promote social mixing through housing as part of large residential developments*
- *to facilitate construction of social and community housing*
- *to stimulate the production of private affordable ownership units*

The MIHS falls within the broader goal, stated in the Montreal Master Plan (2004) that 30% of all newly constructed units in the city of Montreal be affordable to low and moderate-income households (See Figure 4). This figure includes social, community, and affordable ownership units. The MIHS sets the same 30% affordability target for developments that respond to at least one of the following criteria: the project contains 200 or more residential units; the project is to be built on public land, or the project requires a major land use or zoning change (Ville de Montréal, 2005).

Figure 4: MIHS 30% affordability target for all new residential construction



The MIHS consists of a set of guidelines rather than legally binding regulations. Provincial law concerning urban planning and land use does not empower municipalities in Québec to impose inclusionary requirements on private development. Consistent with the

⁹ Unless otherwise indicated, information taken from interviews with City of Montreal staff person.

policy's non-binding nature, triggers and objectives of the MIHS are not codified, although they have been clarified over time. For example, the unit threshold that triggers the MIHS was taken from a footnote, in the original policy document, that stated: “As a guideline, we consider that a project is “major” when the potential for residential development exceeds approximately 200 units (ex. Ateliers Rosemont and the Contrecoeur project)” (Ville de Montréal, 2005).¹⁰ In analyzing the MIHS, it is essential to understand that the guidelines set forth as part of the Strategy are relatively fluid, and that the lack of enabling legislative framework prevents the City from defining more precise inclusionary objectives. This is the case especially for the private affordable ownership component of the Strategy, for which support among housing advocates is also weaker.

4.3 Guiding principles of the MIHS

4.3.1 Mixed-income housing

The MIHS aims explicitly to promote income diversity at the level of both the city and the neighborhood in order to create an “inclusive” city (Ville de Montréal, 2005). The original 2005 policy document for the MIHS identifies greater income diversity as a criteria for sustainable development, as a method of decreasing negative “neighborhood effects” associated with concentration of poverty (see Section 3.3), and as a way to mitigate the effects of gentrification (Dansereau, Charboneau, Morin, Revillard, Rose, & Séguin, 2002; Ville de Montréal, 2005). As Mallach and Calavita (2010) also point out, the focus in Montreal on mixed-income housing is closely tied with the question of equitable distribution of social housing specifically. The principle of mixed-income housing is not as present in the discourse around the private affordable ownership component of the MIHS.

4.3.2 MIHS as a response to the need for affordable housing

Montreal’s inclusionary strategy departs from more traditional IH policies in that it is closely tied with policies and programs to develop social and community housing and, only to a lesser extent, privately owned affordable housing. A housing crisis in the early 2000s led the City of Montreal¹¹ to increase efforts to construct new social, community and affordable housing. In 2002 the city-wide vacancy rate for rental housing units in Montreal fell below 1% (Jeune Chambre de commerce de Montréal, 2003). The crisis created by the inadequate supply of housing spurred the City of Montreal to commit to building 5,000 social and community housing units by 2005 in an initiative known as Solidarité 5 000 logements (Solidarité 5 000 logements, n.d.). From 2006 to 2009 the City repeated the program, this time building or renovating 10,000 private homes as part of Opération 15 000 logements (ibid).

¹⁰ Translation by K. Day.

¹¹ At the time, the entire island was part of the City of Montreal.

Construction of so many social and community housing units in such a short time depleted City land, causing the City to look for alternative ways to develop units (Mallach & Calavita, 2010). Inclusionary housing offered one way to develop social and community housing on both public and private land by imposing on developers the requirement to contribute resources towards inclusionary residential projects.

Although, as Mallach & Calavita (2010) argue, the MIHS represented a way of coping with a shortage of City-owned land, paradoxically the availability of large brownfield sites following the deindustrialization of the city's urban core made it possible to develop large-scale residential projects in up-zoned areas. The large scale of residential development on these sites made the inclusion of social, community, and private affordable units more feasible. Projects such as the Lavo Project and Angus Shops, which contained a mix of housing types targeting a range of incomes, served as precursors—or as “laboratories” (Germain, Rose, & Twigge-Molecey, 2010)—to the inclusionary strategy (see Figure 5).

Figure 5: Large inclusionary projects pre-MIHS

In the 1990s and early 2000s the **Angus Shops**, an 87 hectare former railcar facility was developed into close to 3,800 homes, close to 30% of which were social and community housing units (Ville de Montréal, 2005).

The next large inclusionary project developed in partnership with the City was the **Lavo Project**, launched in 2000 on the site of a former bleach factory. The Lavo Project consists of 204 units, including 20% social housing units, 35% community housing (cooperative) units, and 33% affordable condominiums representing 73% of private market units (Ville de Montréal) (Ville de Montréal, 2005).

Both the Angus Shops and Lavo Project benefitted from substantial assistance from City and Provincial programs.



Photos: former Angus rail yard (www.lapresse.ca); Angus Shops inclusionary project (Bing maps)

4.3.3 Affordable housing as a growth strategy

Affordable housing policy in Montreal, especially regarding private affordable housing, is closely tied to a major goal since the 1970s of repopulating the city center following a population loss in previous decades due to suburbanization, economic stagnation, and the shrinking size of households. In response, the City has aimed to repopulate Montreal through residential intensification and the promotion of homeownership (Rose, 2010).

The City of Montreal's regional population share, at 83% at the turn of the 20th century, dipped below 50% in the early 1970s and, despite modest growth in the past twenty years, stood in 2011 at 43.1% (Ville de Montréal, 2013; See Appendix 3). The City of Montreal has a stake in encouraging people to live in the city because regional population share impacts the city's political and demographic pull in the region (Cournoyer, 1998). Accordingly, a major objective of Montreal's Master Plan is to accommodate 40-50% of new households in the region by supporting the construction of 60,000 to 75,000 new units per year between 2004 and 2014 (Ville de Montréal, 2004).

4.3.4 Promoting homeownership

The requirement that large residential projects include a proportion of privately owned affordable units in addition to social and community housing units reflects the importance placed by policymakers on homeownership. Access to homeownership is a major housing policy priority at all levels of government, with various programs at each of these levels to subsidize homeownership. The widespread belief in the superiority of homeownership in North America holds that this type of tenure is preferable to renting because owners tend to invest in their property and thereby generate value, improving the appearance of neighborhoods and promoting social and economic stability. In Montreal, rental housing is unprofitable,¹² and there is a large potential market for homebuyers. In addition, the City of Montreal has an added interest in encouraging repopulation of the city through homeownership, as it is among the Canadian municipalities that relies the most on property taxes to finance municipal activities (Collin & Léveillé, 2003). In order to retain and attract households and families in particular to the city, Montreal has had in place a cluster of policies meant to encourage homeownership for the past twenty years, beginning in 1989 with a tax credit program to help first time homebuyers (Pinches, 2010).

The City of Montreal aims, through various subsidies and marketing campaigns, to encourage households to purchase homes in the city. Montreal is at a disadvantage in terms of attracting or retaining home buyers because high prices on the island make owning less affordable. Between 2000 and 2005, prices for existing properties had risen by 78% for single-

¹² Construction of rental housing has stalled almost completely in recent years due to the lack of profitability of rental housing. Rents have remained relatively low, due in part to rent control in the Province of Québec, while the purchase prices of homes have risen much faster, rendering for-sale properties more profitable than rental properties.

family homes and by 73% for co-ownership properties. Prices for existing properties during this period were consistently higher on the island of Montreal when compared with surrounding suburbs: 37-42% higher for single-family homes and 29-39% higher for co-ownership units (Ville de Montréal, 2005). In 2013, median sales prices for all properties on the island of Montreal were up to 37% higher for single-family homes and up to 33% higher for co-ownership units relative to nearby off-island suburbs (FCIQ, 2013; See Appendix 4). City initiatives to improve access to homeownership serve to make Montreal competitive with off-island suburban housing markets, which are more affordable.

Notwithstanding the rental housing shortage of the 2000s and the City's commitment to building new social, community, and affordable housing units, the City has an interest in encouraging construction of privately owned units because they tend to generate more tax revenue compared with rental housing (Rose, 2010). This is due to the fact that the sum of the purchase price of individual condominium units in a building is higher than the purchase price of a building with as many rental units (reflecting the unprofitability of rental investment in Montreal). Yet, a major objective of the Agglomération de Montréal (ADM) is the provision of housing for low-income households through the construction and preservation of social and community housing. Hence, large-scale inclusionary residential projects serve as the site for a "compromise between fiscal management and social equity objectives" (Rose, 2010, p. 416).

The City of Montreal's focus on facilitating access to homeownership is also closely tied to its goal of retaining and attracting families to the city. Montreal's loss of population in the past several decades, followed by an only modest growth in recent years, has been attributed to the city's loss of families. Indeed, the city has experienced the greatest loss in population among those under 19 years of age and those between the ages of 25 and 39 (Montréal en statistiques, 2012). In response, in 2008 the City developed an Action Plan for Families to make Montreal more attractive and accommodating to families (Service du développement culturel, de la qualité des milieux de vie, et de la diversité ethnoculturelle, 2008). An important component of this plan is to make housing more affordable for families in an effort to discourage them from purchasing homes outside of the city. In addition to increasing affordability, the Action Plan aims to increase production of housing units that are large enough to accommodate families, a necessary measure given that most newly constructed units are small (Ville de Montréal, 2005). The construction of large 'family' units is a priority of social and community housing development, and of residential development by the SHDM. One short-lived city pilot program, *Habitations urbaines pour familles*, aimed to encourage private developers to construct large units.¹³ Significantly, however, this objective is absent from the MIHS although the issue was raised by the City in its 2007 report (Ville de Montréal, 2007).

¹³ "Urban housing for families" (*Habitations urbaines pour familles*), was discontinued in late 2008 (Habiter Montréal, 2008).

4.4 Implementation

When a project meets the criteria described in Section 4.2, an “incentive-based negotiated approvals” system is generally triggered in which the private developer, the central City, Borough, and the non-profit sector, including affordable housing advocates and local neighborhoods organizations, play a role. Several factors account for the variety of negotiation outcomes for different projects (Valladares, Bornstein & Day, forthcoming):

- *negotiation pattern*: role and leverage of different players, including developer, Central and Borough City authorities, community groups
- *profit margin of the developer*: the extent to which the profitability of the development was explicitly discussed during the negotiation.
- *development timeframe*: the extent to which the inclusion negotiation might have caused a delay, increasing pressure on the developer to reach an agreement
- *ownership of the land*: public or semi-public ownership of land in some cases resulted in the negotiation of a higher proportion of inclusionary units
- *design and site characteristics*: the extent to which unusual design or site characteristics introduced higher costs and hence pressure for developer, or whether opportunity for public sector to subsidize site contamination resulted in negotiation of a higher percentage of inclusionary units

The granting of necessary regulatory changes to allow the development of a large project subject to the MIHS, most often a major change in land use or zoning, is contingent on reaching a negotiated agreement. Developer contribution for inclusionary units may take three forms:

- *land* (given or sold at a reduced price) that is subsequently developed by the non-profit sector using public subsidies in the case of social and community housing
- *units* to be either bought turnkey by the non-profit sector in the case of social or community housing or sold at an affordable price in the case of private affordable inclusionary units
- *payment* of in-lieu fee, discussed in greater detail in Section 4.7.1.

4.5 Delivery of Private Affordable Inclusionary Units

Privately owned affordable inclusionary units, which serve as the focus of the present paper, are always built by a private developer and sold below a price threshold set by the City as part of the Programme d'accèsion à la propriété ("Accession"), a City homeownership subsidy program discussed in greater detail below in Section 4.5.1. Buyers of affordable condos need not qualify for purchase on the basis of their income or history, although price points for affordable units correspond roughly to a purchase price that is affordable to a moderate-income household earning between roughly 70% and 120% of AMI.¹⁴ The Accession program grants subsidies specifically to first-time homebuyers (See Appendix 6).

In the case of some inclusionary projects, the Société d'Habitation et du Développement de Montréal (SHDM), a para-municipal development agency, has played a role in the construction of private affordable units through the AccèsCondo program (discussed in greater detail in Section 4.5.2). In these cases, private developers build and sell units whose buyers benefit from the AccèsCondo program. The SHDM markets the affordable units and assumes the carrying costs of unsold units, which mitigates risk for the developer. In exchange, the developer must work closely with SHDM in the early stages of project development to ensure that units conform to AccèsCondo guidelines. For instance, since 2008, the SHDM requires that 50% of AccèsCondo units contain two bedrooms and that 25% contain three bedrooms. The minimum size of three bedroom units is 1,100 square feet. This guideline not only reflects the SHDM's objective of promoting construction of units that are family appropriate but also corresponds to size requirements for another program that offers subsidies to buyers of private affordable units (Accession, discussed in Section 4.5.2). Affordable SHDM units are not only sold below affordability thresholds set by the Accession program, but also qualify for additional loans and subsidies (See Table 2). However, although it aims to help first time homebuyers with little savings purchase a home in the city of Montreal, the program imposes no income qualifications. Furthermore, buyers may then sell their condominium at market price, as there are no resale restrictions on AccèsCondo units.¹⁵

It is important to note that not all inclusionary projects involve the SHDM and its AccèsCondo program, just as not all AccèsCondo units are contained within an inclusionary project. According to an SHDM employee who played a critical role in the development of the AccèsCondo program, the down payment credit granted to buyers through the program is meant to correspond roughly to the developer's loss in profits—or, viewed, another way, their

¹⁴ The *Accession* program does not explicitly designate a target % AMI. Percent AMI is determined here using a basic mortgage amortization schedule (See Appendix 5). Assumes that household has applied additional *Accession* subsidy to principal amount. Unlike in the United States, percent AMI is not adjusted to household size. Consequently, the percent AMI necessary for a single person to purchase an affordable unit appears lower and the income threshold for household with children purchasing a large unit appears higher. See Appendix 9.

¹⁵ The exception to this, which is discussed in Section 4.5.2, is if the resale price is below market rate.

contribution to the affordability component of the MIHS. However, partnership with the SHDM guarantees that the developer will not lose money if units are slow to sell.

Two City housing programs, the Programme d'accession à la propriété and AccèsCondo, are essential to the private affordable component of the MIHS.

4.5.1 Programme d'accession à la propriété

The Programme d'accession à la propriété ("Accession"), mentioned above, is a City of Montreal program that provides first-time buyers of any income level with a one-time subsidy, and in some cases a waiver for the land transfer tax, as long as the property is purchased at a price below an affordability threshold set by the City (Habiter Montréal, 2013). The Accession program, which is funded by the City of Montreal, serves to further increase the affordability of affordable condominiums.

Affordability thresholds, which are adjusted regularly, correspond to a mix of household and unit characteristics (See Table 1). In 2010, the City added a higher threshold to help households purchase large, family-appropriate units (See Appendix 6). A minimum size requirement for three-bedroom units is meant to promote construction of homes that are desirable for families, which need a large amount of space.

4.5.2 AccèsCondo

As discussed earlier, several inclusionary projects have been developed in partnership with the Société d'habitation et du développement de Montréal (SHDM).

Only projects developed by the SHDM may benefit from subsidies as part of the AccèsCondo program, which offers buyers a purchase credit, equal to 10% of purchase price, towards down payment of an affordable condominium (SHDM, 2011).¹⁶ The AccèsCondo program contains a subsidy retention mechanism that is "attached to the cash" in that it requires that buyers reimburse the purchase credit and ten percent of the increased value of the unit (Towey, 2009). As a result, similarly to the Accession program, SHDM, through AccèsCondo, helps to increase the affordability of inclusionary ownership units.

In analyzing Montreal's Inclusionary Housing Strategy (MIHS) it is essential to recognize that, as shown above, subsidies are used to support the construction of private affordable housing. Consequently, the MIHS departs from the traditional inclusionary housing model in that it requires resources other than the implicit subsidies provided by the private development sector.

¹⁶ It is interesting to note that the *AccèsCondo* program falls under the development (*développement*) mandate of the SHDM, while the housing (*habitation*) mandate concerns other programs to manage affordable rental units.

Table 1: Accession à la Propriété program affordability thresholds (as of March 2013)

Makeup of purchasing household	Maximum purchase price	Subsidy	
		Grant	“Welcome tax” waiver
single person, no children	\$200,000	\$4,500	None
household without children	\$250,000	\$4,500	None
household with at least one child	\$280,000	\$10,000	100%
unit with 3+ bedrooms (under 1,033 sq. ft)	\$360,000	\$10,000	100%
unit with 3+ bedrooms (1,033 sq. ft and above)	\$360,000	\$12,500	100%
Source: (Habiter Montréal, 2013)			

Table 2: Example of purchase and resale through AccèsCondo

Example: <i>AccèsCondo</i> unit purchased by a couple without children in 2013 with additional subsidies through <i>Accession</i> , resold in 2023.	
Purchase price	\$250,000
Purchase credit (10% purchase price)	(\$25,000)
<i>Accession</i> grant	(\$4,500)
Final purchase price	\$220,500
Resale price	\$350,000
Increase in value	\$100,000
Purchase credit to be repaid	\$25,000
Portion of repayable increase in value (10%)	\$10,000
Total to be repaid to SHDM	\$35,000
Total earned equity	\$65,000

4.6 Monitoring and long-term affordability of private affordable inclusionary units

Since its adoption, the MIHS has been the subject of an evaluation only once, in 2007. No official report has been released since 2007 analyzing the effectiveness of the MIHS. However, the programs complementary to the MIHS discussed above are monitored since the responsible public bodies must account for the use of public funds.

Although all social and community housing units are managed by the non-profit sector, ensuring that units remain affordable, privately owned affordable units are monitored very little. The purchase price of private affordable units is monitored under two circumstances: 1) the purchasing household benefits from a subsidy, such as AccèsCondo and/or Accession à la propriété, or 2) the private developer has committed to forfeiting an in-lieu fee if the requisite proportion of units in the inclusionary project has not been sold at an affordable price as negotiated with the City.

The City's Accession program grants subsidies on the basis of household composition and, only in the case of three-bedroom units, the unit size and number of bedrooms. It does not track resale, although it requires occupancy of the home for at least three years.

Post-purchase and resale monitoring of private affordable units is done only in the case of AccèsCondo units (See Section 4.5.2). The SHDM conducts surveys in order to analyze occupancy of private affordable AccèsCondo units in terms of size of household, presence of children, and length of occupancy, among other things. Survey results are meant only to better understand who is served by the program, rather than to monitor occupancy. To calculate reimbursement, the SHDM tracks resale prices of AccèsCondo units (See Table 2, p. 33). Although the SHDM does not cap resale price, the agency could theoretically contest an unusually low resale price that might indicate a seller's intent to avoid fulfilling the requirement of reimbursing the SHDM 10% of the market increase.

The monitoring of private affordable inclusionary units is complicated by several methodological limitations. First of all, because the affordability of units is defined by the City largely on the basis of household composition, it is not possible to confirm the proportion of private affordable units until they are occupied. To date, only one project has been occupied, Imperial Lofts. All other projects subject to the policy are in earlier phases of development.

Second of all, to the extent that it is theoretically possible to cross-reference databases for buyers having benefited from the Accession and AccèsCondo programs to gauge the level of affordability of private affordable units, this method would still exclude private affordable units built and sold by the developer alone. The City does not systematically collect data on purchasers of affordable ownership inclusionary units.

Ultimately, that there is little direct monitoring of the private affordable ownership component of the MIHS is revealing. Montreal's inclusionary strategy mobilizes existing

programs and subsidies in order to create large, mixed-income housing projects; however, the 'big picture' of private affordable construction through MIHS is more difficult to track because it is fragmented in its implementation.

4.7 Evolution of the MIHS

4.7.1 In-lieu fee option

Given that residential social mix is a major goal of the MIHS, the policy aims to have developers set aside affordable and social/community units within the master project site. However, in some cases, the developer is offered the option to build social/community units within close proximity to but not directly on the main site. The policy does not specify maximum distance for cases where inclusionary units are constructed off-site.

As of March 2012, the MIHS was modified so as to offer developers another option: payment of an in-lieu fee for each inclusionary unit not built, which goes towards a "Contribution Fund." This option is available in cases where on- or off-site inclusion is not "feasible" or "compatible," namely in Montreal's City Center (Ville de Montréal, 2013).¹⁷ Funds can be applied to projects outside of the borough of the original project, as long as both boroughs give their approval. According to one City official, for reasons having to do with the financial and organizational characteristics of social and community housing in Montreal, the MIHS is meant to yield social and community housing projects that stand alone on a project site, rather than scattering such units throughout the master project. Consequently, a successful inclusionary project requires a lot of a sufficient size in order to accommodate both the private and the social and community housing. Therefore, integration is not feasible in some high-density areas, for instance the center of Montreal, where vacant lots are rare. (Ville de Montréal Commission permanente du conseil municipal sur la mise en valeur du territoire, l'aménagement urbain et le transport collectif, 2007).

Funds from in-lieu fees are to be contained in 38 separate accounts, one for private affordable and one for social/community housing for each of the 19 boroughs. In the case of social and community housing, whenever possible, funds are applied directly to a project in need of financing. Contributions for private affordable units correspond to an amount calculated to fund a number of units equal to 17.6% of the total project. Upon completion of the project, in-lieu fees for private affordable units are recovered by the developer if the project contains the required percentage of affordable units; if the project does not meet this requirement, the developer forfeits the in-lieu fee.

¹⁷ See Appendix 10 for map of City Center, as defined in Map 2.3.1 of the Montreal Master Plan (2004).

4.7.2 Adoption of different modalities by some boroughs

The 2005 document that lays out the MIHS calls on boroughs to establish affordable housing objectives that reflect the city-wide Strategy:

In this context, Montreal's boroughs are called upon to put in place affordable housing objectives for their territory. These objectives should take into account both the global objectives set for all of the City of Montreal and the needs and potential areas of intervention specific to the borough. (Ville de Montréal, 2005)¹⁸

Since the adoption of the MIHS, several boroughs have participated in the negotiation of inclusionary projects. However, two boroughs have adopted documents that express support for the MIHS but that also put in place modalities that go further than the MIHS in inciting developers to include social/community and affordable units in private residential projects. In 2012 both the Sud-Ouest and the Mercier—Hochelaga—Maisonnette boroughs introduced their own inclusionary housing strategies, each of which sets local goals for inclusion beyond what is stipulated in the 2005 Montreal Inclusionary Housing Strategy.

The policy of the Borough of Sud-Ouest applies to a wider range of residential projects, as it suggests a lower size threshold (Arrondissement Le Sud-Ouest, 2012). The inclusionary housing action of the Borough of Mercier-Hochelaga-Maisonnette, though less demanding than the Sud-Ouest strategy, also lowers the threshold for the number of units in a project that triggers negotiation for inclusion (Arrondissement Mercier--Hochelaga--Maisonnette, 2012). Mercier-Hochelaga-Maisonnette targets the inclusion of the same percentage of social and community as well as affordable private units as the MIHS, while the strategy adopted by the Sud-Ouest stipulates a higher percentage of inclusionary units under certain conditions.

4.8 Yield

Two years after the adoption of the MIHS, the City of Montreal published a progress report on its implementation based on data from the City as well as from input from a public consultation. The report indicated that from 2005 through 2006, prices for 39% of all new residential construction on the island of Montreal (ADM) fell below the affordability threshold, exceeding the 30% affordability goal set in the MIHS (Ville de Montréal, 2007).¹⁹ At that time eleven large inclusionary projects were being negotiated or in the process of being developed (Ville de Montréal, 2007). Six years later, a total of 31 inclusionary projects are in various stages

¹⁸ Translation by K.Day.

¹⁹ Proportion of affordable units in 2007 was 27.1% when adjusted to exclude social and community housing units. A unit is considered affordable when it is sold below price thresholds set by the *Accession* program that correspond to the date of transaction.

of negotiation and development (Ville de Montréal, 2013).²⁰ In total, when these inclusionary projects are completed they should yield 8,000 social/community and affordable for-sale units.

Due to the length of the negotiation and development process, only one inclusionary project, Imperial Lofts, has completed construction (See Figure 6). The 2007 evaluation of the MIHS indicated that the policy resulted in the negotiation of projects including between 13% and 54% social and community housing units and between 0% and 87% private affordable units (Ville de Montréal, 2007).²¹ Overall, 23-24% of total units in those projects were social and community housing, while 22-23% of total units were private affordable ownership units or developed by the SHDM, in which case the report indicated that some SHDM units were also to be affordable (ibid; See Appendix 7).

Developers have opted to pay the in-lieu fee in twelve cases, generating potentially \$3.6 million (Ville de Montréal, 2013).²² According to a staff person, \$823,000 has already been deposited as of May 2013, while the rest is contingent on the successful completion of construction for all other projects negotiated so far.

Only one inclusionary project, Imperial Lofts, is completely built and occupied. Consequently, the exact number of bedrooms for affordable for-sale units is currently unknown (See Figure 6).

Figure 6: Imperial Lofts

Although not the first large mixed-income residential project (See Figure 5), Imperial Lofts was initiated immediately following adoption of the MIHS in 2005 and is therefore the first inclusionary project to which the MIHS has applied. The Imperial Lofts complex contains 486 units. Seventy-eight units (16%) were set aside for social and community housing, while 122 (30%) were sold privately below the City affordability threshold (Habiter Montréal, 2008).



Source: www.loftimperial.ca

²⁰ As of April 2013.

²¹ Percentages are for 11 projects only and should serve as only a rough indication of the delivery of social, community, and private affordable ownership units in inclusionary projects.

²² Note that complete data on the proportion of potential inclusionary units negotiated for each project is unavailable. Unlike in other cities, which are more demanding of developers who opt to pay the in-lieu fee, City of Montreal policy regarding use of the in-lieu fee is still unclear.

Table 3: Results of Montreal Inclusionary Housing Strategy as of May 2013

Goal	Results
Promotion of social mixing through housing as part of large residential developments	• 31 inclusionary projects in various stages of negotiation or development • However, in 12 of these cases, developers have opted to pay the in-lieu fee (\$823,000 collected)
Facilitation of construction of social and community housing	• Approx. 4,000 social and community housing units • (13 to 54% per inclusionary project) • (information concerning off-site units is unavailable)
Stimulation of the production of affordable housing to facilitate access to homeownership.	• Approx. 4,000 affordable units (including ownership and private rental) • (0 to 87% per inclusionary project)

To date, no study has been undertaken to determine the proportion of affordable for-sale inclusionary units that have been resold, or at what price. As discussed earlier, there is no mechanism for ensuring long-term affordability of private affordable inclusionary units. Anecdotal evidence, however, suggests that private affordable units tend to be small, so market price of units is likely to remain relatively low. In 2007 the City reported that the “majority” of affordable for-sale inclusionary units built by the private developer were small and inappropriate for families (Ville de Montréal, 2007).

4.9 Challenges

The results presented above show that the City of Montreal has been successful in achieving the goals laid out in its inclusionary policy. Nevertheless, several challenges have emerged that threaten to inhibit the continued successful implementation of the private affordable ownership component of the Inclusionary Housing Strategy.

4.9.1 Legislative framework limits municipal power to impose requirements

Québec planning law (Loi sur l’aménagement et l’urbanisme) limits the power of municipalities to impose inclusionary requirements or other requirements concerning the size and type of private housing units on private developers. The system of negotiation used in Montreal, discussed earlier, allows for community advocates to have a greater voice in negotiating social and community housing units. However, it leaves the City vulnerable to legal challenges. Furthermore, the literature on inclusionary housing consistently argues that

mandatory policies are more effective and foster a more predictable investment environment (Brunick, Goldberg, & Levine, 2004).

A legislative proposal to amend Québec planning law, currently on hold following the September 2012 provincial election, contains a measure in Articles 183 and 184 to empower municipalities to require inclusion of social housing units (Trente-neuvième Législature de l'Assemblée Nationale de Québec, 2011; See Appendix 8). Proposed Articles 185 and 186 would empower municipalities to require developers to include a specific type and size of housing units (ibid). The successful amendment of the law may allow the City of Montreal to demand more of developers.

However, case studies have shown that a voluntary inclusionary policy can be successful as long as it is consistent and aggressively implemented by City staff (Brunick, Goldberg, & Levine, 2004). Ironically, given that the literature indicates that a variation in support at the local level can weaken an inclusionary housing policy, much of the successful construction of affordable housing through the MIHS can be attributed to the activism of social housing advocates and to the City's at times direct involvement in the negotiation process leading up to inclusionary projects (Valladares, Bornstein & Day, forthcoming). The adoption of more aggressive IH policies at the borough level, discussed earlier, serve to illustrate how a voluntary negotiation-based system may favor increased production in affordable housing. Conversely, however, lack of aggressive local involvement in some cases has led to missed opportunities for inclusion in large-scale residential development projects. In addition, uneven application of the MIHS is problematic in that it results in the creation of an inequitable and potentially unstable investment atmosphere for developers.

4.9.2 Infeasibility of inclusion in some projects

While the establishment of the contribution fund can help to address the issue of equity among developers, it poses another problem related to one of the main goals of the MIHS: to encourage mixed-income housing. The lack of inclusion in large developments in the Montreal CBD, while based on practical issues related to cost and to project type, nevertheless throws into relief the challenges of providing affordable housing through inclusionary policies. Such policies are most needed in areas with the highest housing costs, but it is precisely in these areas that it is most difficult to convince developers to include lower-cost units.

4.9.3 Affordable units constructed are not appropriate for families.

While the MIHS targets the construction of private affordable ownership units, it stipulates only that the units be sold below a certain price. The City of Montreal sets this affordability threshold as part of its Accession à la propriété ("Accession") program, discussed earlier in Section 4.5.1. Several affordability thresholds are set in the Accession program based on the composition of the household buying the unit as well as on the number of bedrooms in the unit. This allows for higher-priced units to be considered affordable if they are large enough

to accommodate a family. Yet higher affordability thresholds alone fail to compensate for the difficulties of building larger units in two ways. Firstly, as pointed out by developers themselves, in the absence of minimum required square footage, developers tend to build smaller units (Ville de Montréal, 2007). Secondly, according to one City staff person, developers remain cautious about constructing units with a higher number of bedrooms because these homes are absorbed more slowly by the market. In the past, some developers who have aimed to build units with more bedrooms have resorted to subdividing these large units when they didn't sell quickly enough.

However, unlike in the Accession program, which applies different affordability thresholds based on the composition of the buyer households (See Appendix 6), information on buyers of affordable units in inclusionary projects is not collected. As a result, developers tend simply to set aside smaller units to be sold at an affordable price (Ville de Montréal, 2005). According to a City staff person, attempts to obtain larger private affordable units in projects subject to the MIHS have been unsuccessful. In any case, developers have little incentive to sell larger units at an affordable price, unless inclusionary for-sale units are developed in partnership with the SHDM.

Only in the case of projects with AccèsCondo units is any unit size imposed (See Section 4.5.2). Although large units are not necessarily occupied by families, in the case of Faubourg Contrecoeur, a very large inclusionary project, for the first two months of sales the SHDM restricted purchase of three bedroom stacked townhomes to families with children. This special measure was taken because that type of unit was deemed to be especially fitting for families with children. Half of these units were purchased by such households. Of note, it was found that purchasers with children were more comfortable buying in a complex where they knew there would be other families with children.

Yet, in the case of affordable inclusionary units built and sold privately, a developer has little incentive to build large units. Indeed, given the high cost of building larger units, it is not surprising that developers opt instead to offer affordable units that are small and therefore more appropriate to individuals or couples. Consequently, the private affordable component of the MIHS tends to yield units that can be sold below affordability thresholds but which are small both in terms of area and in terms of number of bedrooms. The predominance of small private affordable units is problematic for at least two reasons. First, if the affordable units included in a project can be sold more cheaply simply because they are smaller, this may mean that the price of affordable units may in fact reflect market price. In this case, the inclusionary housing strategy, as a tool for producing affordable housing, would therefore be redundant. Second, the construction of smaller units inhibits the realization of another major policy objective of the City of Montreal: to retain and attract families to the City.

The new inclusionary policies adopted by the boroughs of Sud-Ouest and Mercier—Hochelaga—Maisonnette both aim to encourage the construction of units appropriate for families. However, this goal concerns mainly social and community housing.

4.9.4 Lack of a mechanism to ensure the long-term affordability of private inclusionary units

Unlike in most other cities with inclusionary housing policies, the Montreal program has no mechanism to ensure the affordability of ownership inclusionary units beyond first purchase. Only in the case of projects developed in partnership with the SHDM are there any restrictions attached to affordable for-sale units (See Section 4.5.2). While this model ensures that the SHDM recovers its investment while lowering the cost barrier of buying a home, it does not ensure that the benefits go to a household in need of homeownership assistance, not does it ensure that the unit will be affordable after first purchase. Once the City, through the SHDM, has invested resources into creating affordable condominiums, with the exception of the repaid loan and 10% of earned equity, that investment is lost.

Crucially, the MIHS does not aim to create permanently affordable for-sale inclusionary units. Indeed, the City's prioritization of access to homeownership is more closely tied with its goal of attracting households through the purchase of a home in the city rather than with the goal of setting aside a portion of its housing stock to be affordable over the long term. To the extent that the MIHS has resulted in the construction of units with a more accessible price tag, the MIHS has succeeded in creating opportunities for moderate-income households to access homeownership.

However, due to the large timeframe for negotiation and development of inclusionary projects, it is not possible to verify whether the units are purchased by moderate-income households, except in cases where purchasers have benefitted from a grant through the Accession program. Due to this lack of income monitoring mechanism, it is impossible to know whether the MIHS broadens access to homeownership or simply brings down purchase price for a limited number of units. Furthermore, the lack of a long-term affordability mechanism guarantees that affordable inclusionary for-sale units, which are built and sold to a first buyer at an affordable price point, will eventually generate a windfall for private owners at resale and lose their affordability. This is problematic in the context of an inclusionary housing policy because, at best, it amounts to a subsidy for private developers to diversify the price of new units and encourages the purchase of condos but may not create a stock of affordable housing in the long-term.

4.10 Conclusions

A number of challenges have been identified that threaten the attainment of the goals set out in the Montreal Inclusionary Housing Strategy concerning the construction of privately owned affordable homes. Due to time and resource constraints, this paper concerns itself with the analysis of only two of these issues: 1) the challenge of producing private affordable units that are large enough for families and 2) the need for a mechanism to ensure long-term affordability of for-sale inclusionary units. Both of these challenges are attributable to the particular character of the Montreal Inclusionary Housing Strategy, which departs from traditional inclusionary housing policies in several ways.

The MIHS is above all a tool for ensuring that social housing is built adjacent to market rate housing through a developer contribution of land. In that respect, since its adoption the MIHS has triggered inclusion or payment of an in-lieu fee in 31 large residential projects. However, such potential units are to be inclusionary only inasmuch as they are built as part of a larger market rate project; no more social or community units can be built than can be directly subsidized by the public sector. As with most other inclusionary housing policies, the MIHS alone does not generate affordable non-market units.

This paper concerns itself principally with a secondary goal of the MIHS, which is the guarantee that a proportion of new residential units are affordable to moderate-income households. While many large residential projects since the adoption of the MIHS have successfully included units with prices below the affordability threshold for moderate-income households, it is unclear whether the MIHS has succeeded in increasing housing affordability in Montreal. As a report by Altus Clayton (2008) points out, for many inclusionary policies

[t]he primary determinant of success is the number of subsidized units built under the policy...rather than the impact of the subsidized units produced (i.e., did the policy produce enough to meet needs? What is the scale of production relative to the size of the housing market?)
(p. 2, Italics in original)

Buyers of affordable for-sale units benefit from public subsidies, but there exists no system for preserving affordability of those units. This represents a lost opportunity to preserve the long-term affordability of a proportion of Montreal's housing stock at a time when housing prices are on the rise. Furthermore, to the extent that the affordable for-sale portion of the MIHS does at least serve to encourage homeownership, it fails to make a large impact where it is most needed: in the retention and attraction of families to the city.

Chapter 5

Residential Inclusionary Affordable Housing Program (San Francisco, CA)

As discussed earlier, the production of a diversity of private affordable for-sale homes in the context of an inclusionary project remains a challenge in Montreal, where developers often opt to set aside smaller units to fulfill their obligations under the Montreal Inclusionary Housing Strategy (MIHS). In order to gain insight into how this challenge can be tackled, this Chapter presents a case study of San Francisco, another large North American city whose inclusionary housing policy explicitly addresses the problem of small inclusionary units. This chapter seeks to answer two questions:

- 1) *To what extent does San Francisco's inclusionary housing policy yield units that are large enough to accommodate families?*
- 2) *To what extent does the multi-bedroom requirement found in the Eastern Neighborhoods Area Plans boost, or have any impact on, the production of multi-bedroom inclusionary BMR units?*

5.1 Introduction

Municipalities must balance the needs of moderate and low-income households against the costs of affordable housing, which in the case of inclusionary housing is borne at least in part by the private sector. The lower the income of the targeted household, the deeper the subsidy required, whether by the public or the private sector, to develop the housing unit. Furthermore, it is important that inclusionary housing policies not only specify the income target but also the size and type of affordable units. Most inclusionary housing policies allow developers the flexibility to build affordable units that are smaller in surface area or not as well equipped as the market rate units (Porter, 2004, p. 230). However, the private developer might be tempted to save money by making all the affordable units one-bedroom or studio apartments unless the inclusionary housing (IH) policy contains a provision specifying the “bedroom mix” of the affordable units.

Production of such smaller inclusionary units is not necessarily a bad outcome, as the need for affordable housing exists across households of all sizes. However, to allow developers to compensate fully for the cost of including affordable units runs counter to the purpose of inclusionary housing, which is to capture a part of the profits of private development, created through a planning gain, to produce units that are below market rate.

San Francisco’s Residential Inclusionary Affordable Housing Program (RIAHP) is among those IH policies in the US that contain a bedroom mix provision. The policy requires that inclusionary “below market rate” (BMR) units mirror the master project’s market rate units in terms of the number of bedrooms per unit. Remarks by a policy expert in San Francisco illustrate the logic of including such a provision as follows:

If developers could choose to build BMR units of any size to satisfy the onsite inclusionary requirement, then only small BMR units – studios and one bedrooms – would get built, as these are the least costly. To ensure a variety of unit sizes, San Francisco requires that BMR units built onsite reflect the overall unit mix of the development.

Given that the guiding principle of IH is the leveraging of private market activity by setting aside a portion of its production as affordable, an inclusionary policy should yield an affordable product that is similar to what the market provides.

The case of San Francisco deserves close examination as the City not only requires a bedroom mix among affordable units that reflects that of the inclusionary project’s market rate units, but it also goes so far as to require that developers build larger units in the first place through a separate multi-bedroom requirement imposed in Special Area Plans, namely, the Eastern Neighborhoods Area Plans.

5.2 Context

5.2.1 Housing costs in San Francisco

San Francisco is notorious for having one of the most expensive housing markets in the U.S.²³ In 2013 the income needed to afford to rent the median two-bedroom apartment at \$3,100²⁴ would require 6.12 full time jobs at the City's minimum wage, which is the highest minimum wage in the country (Said, 2013).²⁵ Furthermore, the purchase of a home in San Francisco is unaffordable even for households earning 150% of area median income (AMI).²⁶ As of April 2013, San Francisco's median home price, \$825,000,²⁷ is 4.3 times the national average for existing homes and three times the national average for new homes.²⁸

Due to high housing costs, 37% of San Francisco households, including 49% of renters and 29% of owners, spend more than thirty percent of their income on housing, in spite of the fact that wages in San Francisco generally tend to be high.²⁹ Only about one quarter of new housing units built between 2000 and 2009 were affordable to households earning area median income, although some neighborhoods remain affordable to moderate and upper-income households (City of San Francisco , 2011; Seifel Consulting, Inc., 2012).

5.2.2 Housing policy context

Historically, housing policy in San Francisco has been relatively progressive, reflecting the city's strong community development infrastructure, its history of affordable housing advocacy, and state fair housing legislation. Yet, policymakers and affordable housing advocates in San Francisco face the double challenge of a robust housing market that has priced out more and more households and a limited supply of land that renders residential development a "zero sum game, in which there are winners and losers" (Rosen & Sullivan, 2012). Recent years have seen the emergence of a political climate that is less favorable to the affordable housing sector (Cohen, 2013). For instance, 2012 saw the elimination of all local Redevelopment Agencies,

²³ Population in 2011: 812, 826.

²⁴ "Housing wage" is a measure used by the National Low-income Housing Coalition that assumes that a household pays no more than 30% of their income towards rent, and that the household earner(s) work(s) 40 hours per week, 52 weeks per year (NLIHC).

²⁵ As of January 2013, minimum wage in San Francisco is \$10.55, while the State of California has set the minimum wage at \$8.00 (City and County of San Francisco, 2013; U.S. Dept. of Labor, 2013).

²⁶ Due to the unusually high cost of housing, the AMI used for City of San Francisco housing programs is three-county AMI designated by the Department of Housing and Urban Development (HUD) that is unadjusted for housing costs. In practice, this measure yields a lower AMI (MOH, 2013).

²⁷ Both new and existing, all unit types.

²⁸ San Francisco median price taken from Trulia (2013); national median price for existing homes (\$192,800) taken from the National Association of Realtors (2013) and median price for new homes (\$271,600) from the U.S. Census Bureau (2013) for new homes.

²⁹ Households that spend over 30% of their income on housing costs are considered to be housing cost burdened. (U.S. Census, 2011); Minimum wage taken from City and County of San Francisco (2012).

which had played a key role in the development of affordable housing throughout California since the late 1940s (Pristin, 2012).

The diversity of affordable housing units in San Francisco reflects the variety of tools and programs used to deliver affordable, non-market housing in the United States. The Mayor's Office of Housing (MOH) guides the City's housing policy in addition to financing development, monitoring housing programs, and assisting homebuyers.³⁰ The MOH aims through housing policy both to respond to the needs of low-income households and to facilitate access to homeownership for moderate-income households.³¹ The City of San Francisco supports 20,900 units of deed-restricted affordable housing, including 2,800 affordable ownership units representing 2.2% of all owner-occupied units (City and County of San Francisco, 2012). A total of 869 BMR ownership units are governed under the Residential Inclusionary Affordable Housing Program, which I discuss in more detail below (City and County of San Francisco, 2012).

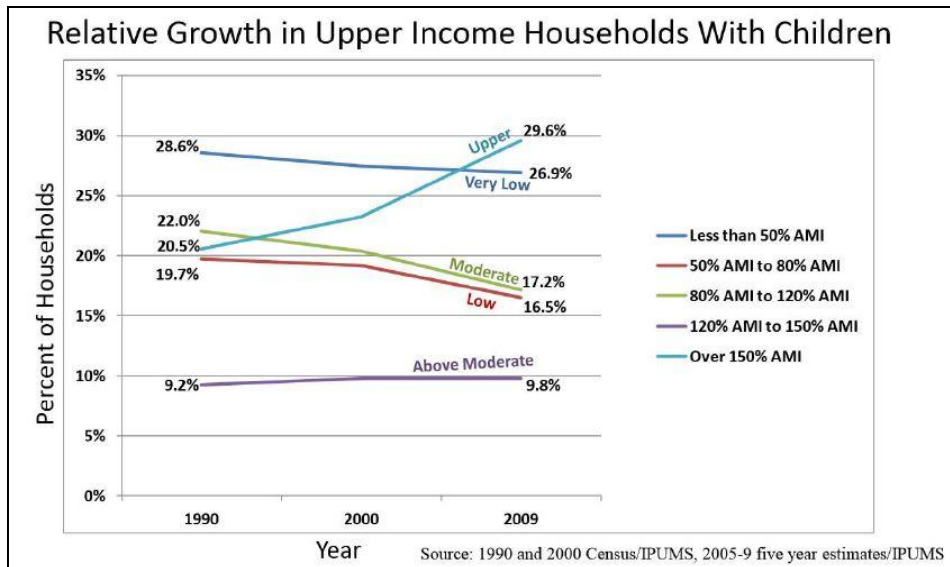
5.2.3 Housing and families

Against the backdrop of an expensive housing market and a variety of policies and programs aimed at helping households to access affordable housing, policymakers in San Francisco have recently shown a particular concern for attracting and retaining families with children. As of 2009, families with children made up 18.4% of San Francisco households, whereas they make up 37% of households in the U.S. at large (U.S. Census, 2012) (Mayor's Office of Housing). Furthermore, San Francisco has the smallest proportion of children of all major U.S. cities: children under the age of 14 make up less than 13% of the population (City of San Francisco, 2011). This figure is comparable with cities that also struggle with issues of affordability, such as Portland and Seattle, and parts of New York City (Egan, 2005). However, the proportion of San Francisco families with children has risen sharply in one income group: close to thirty percent of families with children belong to the upper-income group (over 150% AMI), representing a share increase of 9.1% in the last two decades (Mayor's Office of Housing, 2011). As shown in Figure 7, nearly all other income groups experienced a loss of families with children.

³⁰ For more information, see website of Mayor's Office of Housing: www.sf-moh.org.

³¹ 93% of deed restricted affordable ownership units are targeted to households earning less than 80% or less than 100% AMI (City and County of San Francisco, 2012).

**Figure 7: Relative Growth in Upper-Income Households with Children
(Mayor's Office of Housing, 2011)**



Families currently living in San Francisco face challenges accessing housing that is affordable and appropriate for large households. One out of every eight San Francisco households lives in overcrowded housing,³² a problem that disproportionately affects nonwhite households (City of San Francisco, 2011). Yet, units considered by the MOH to be appropriate for families—that is, that contain two or more bedrooms, are not rare: based on the two-bedroom guideline, 90% of owner-occupied housing units and 46% of renter-occupied units are large enough to accommodate some families (U.S. Census, 2011).³³ However, as one policy expert speculates, the high demand for large units by both family and non-family households generates upwards pressure on housing prices. Indeed, housing demand in San Francisco generally is “seemingly infinite” (City of San Francisco, 2011, p. I.1). Figure 7 supports the argument that rising housing prices are an important factor in the loss of low- and moderate-income families in favor of upper-income families.

The City of San Francisco has put forth several policies and programs designed to help families with children access affordable housing. Subsidized affordable housing targeted to low-income households prioritizes construction of family units. For example, of the 4,920 new subsidized units built between 2000 and 2008, 2,410—roughly half—were targeted to families and include three or four bedrooms (City of San Francisco, 2011, p. 29). The Mayor’s Office of Housing has also responded to the family housing squeeze through a down payment loan

³² Households are considered to be overcrowded when there are more people living in the dwelling unit than there are rooms.

³³ Note, however, that while two bedrooms is the minimum requirement for ‘family-friendly’ housing, larger families would not fit in such units. This issue is discussed in further detail in Section 7.1.

program, the preservation of public housing for vulnerable families, and eviction prevention assistance (Mayor's Office of Housing, n.d.).

5.3 Inclusionary housing in San Francisco

The following analysis focuses on two other policies that operate as interventions in the private market to encourage the construction of family-appropriate affordable housing. I principally examine San Francisco's inclusionary housing policy, the Residential Inclusionary Affordable Housing Program (RIAHP), focusing on the policy's potential to address the family housing squeeze through a bedroom mix provision that requires that inclusionary units reflect market units in terms of the number of bedrooms. In addition, I consider a multi-bedroom requirement that, although not an inclusionary policy, serves to boost the effects of the RIAHP by requiring developers to build a certain proportion of units with two or more bedrooms.

5.4 RIAHP: History and objectives³⁴

As with the MIHS as well as the Chicago Affordable Requirements Ordinance (ARO),³⁵ the San Francisco Residential Inclusionary Affordable Housing Program (RIAHP) evolved from a piecemeal approach that included a 1981 linkage fee ordinance requiring developers to contribute to a housing trust fund, as well as a voluntary inclusionary housing policy that, starting in 1992, triggered negotiation between private developers and the City for inclusion in residential projects.³⁶ The 1992 policy, which applied only to projects that required conditional use permits and excluded much of the residential development activity that dominated during this time known as "live-work units," aimed to incite developers to set aside "like-for-like" (Home Builders Association and Non-Profit Housing Association of Northern California, 2005) below market rate (BMR) units.³⁷ However, due to the limited scope of the policy, it yielded few BMR units.

In 2002, in an effort spearheaded by politically moderate Supervisor Mark Leno in partnership with the affordable housing sector, private developers, and the City, San Francisco's inclusionary policy was codified, made mandatory and expanded to apply to all residential development projects of ten units or more. The newly amended RIAHP required that developers set aside 10% of all project units if building on site and 15% if building off site

³⁴ Unless otherwise indicated, information taken from interviews with two MOH staff members.

³⁵ The ARO is the subject of the case study in Chapter 6.

³⁶ All information taken from a few sources: RIAHP Manual (2013), City of San Francisco (2011); see Table 4 for summary of RIAHP. As early as 1981, San Francisco had had a linkage fee ordinance that required developers to contribute an amount, based on square footage of their project, to a housing trust fund.

³⁷ According to MOH staff person. Original inclusionary housing policy cannot be accessed electronically.

(Brunick, Goldberg, & Levin, 2003; Deirdre, 2007). The City has never set a clear production target in terms of number of BMR units.

The “Leno ordinance” that created the RIAHP in 2002 was put forward in part in order to preserve income diversity in the face of gentrification taking place in Supervisor Leno’s district. The principal aim of the RIAHP, however, was to encourage construction of permanently affordable housing units for middle class families, whose needs are met neither by the private market, which builds housing that is unaffordable to most middle-income households, nor by the affordable housing sector, which develops housing specifically for low and very low-income households, as well as for other populations with special housing needs.³⁸ According to the Council of Community Housing Organizations (CCHO), an affordable housing coalition and one of the inclusionary housing policy’s most ardent defenders, the affordable housing sector viewed the creation of moderate-income housing as complementary to the goal of addressing the housing needs of the low-income population traditionally served by the affordable housing sector. Furthermore, faced with a political climate in which critics questioned the wisdom of funding affordable housing for the poor when the city was losing middle-income families, San Francisco’s affordable housing sector had an interest in advocating for an effective inclusionary housing policy that would lead to the creation of housing for middle-income households.³⁹

5.4.1 Current policy⁴⁰

The RIAHP requires the setting aside of permanently affordable BMR units in residential projects of five or more units as a condition for approval to build. As of May 2013, the RIAHP applies to all conditional use and as of right projects. Officially, developers are required to pay an in-lieu fee but may opt to contribute a proportion of units either on or off site. As of 2010, all on-site units must be for sale, while off-site units can be ownership or rental. Off-site units must be located within one mile of the master project. Developers must set aside 12-15% of units if building on site, and 17-20% of units if building off site.⁴¹ On-site BMR units are targeted to households earning 90% AMI in the case of ownership units. Off-site units are targeted to households earning 70% AMI in the case of ownership units, and 55% AMI in the case of rental units. Under the Eastern Neighborhoods Area Plans (ENAP), developers must set aside a higher proportion of units: 18-22% for on-site, or 23-27% for off-site. (See Table 4 for summary)

³⁸ The affordable housing sector in San Francisco does not traditionally serve the needs of middle-income families for two reasons. Firstly, the sector has its roots in community organizing by and for the poor and working class. Secondly, the populations served by the affordable housing sector are determined in large part by the availability of public funds, which are more difficult to leverage to address needs of middle-income households.

³⁹ In the past twenty years San Francisco has seen the growth of very low-income and upper income households, two largest income groups that together represent 57% of the population as of 2009 (Mayor's Office of Housing).

⁴⁰ See Section 415 of the Planning Code for the RIAHP and Section 419 for laws concerning projects within areas regulated by the Eastern Neighborhoods Area Plans (EN).

⁴¹ The range of required set aside reflects the fact that developers may negotiate a smaller set aside if units are priced to target households earning a lower income.

Table 4: Current inclusionary housing requirements in San Francisco, May 2013

	Set aside		fee	Income target			
	On-site	Off-site		Rental		Ownership	
				On-site	Off-site	On-site	Off-site
Inclusionary Housing Program (RIAHP) <i>Section 415</i>	15% (ownership only)	17%	20%	55% AMI	55% AMI	90% AMI	70% AMI
Eastern Neighborhoods Area Plan (ENAP) <i>Section 419</i>	18-22%* (ownership only)	23-27%*		55% AMI*	55% AMI*	90% AMI*	70% AMI*
*Middle-income Alternative option: 120-150% AMI for all inclusionary units Source: City and County of San Francisco (2012), San Francisco Planning Code (n.d.)							

5.4.2 Evolution of the policy

The City of San Francisco has amended the RIAHP several times since 2002. In 2006, the policy was expanded to apply to residential development projects of five units and more, with a higher set-aside requirement of 15% for on-site and 20% for off-site units. Income targets were lowered for all BMR units. Starting in 2008, as part of the Eastern Neighborhoods Area Plans (ENAP), the required set-aside was increased for projects located within a cluster of neighborhoods projected to contain much of the city's growth. Recently, the passage of the Housing Trust Fund "Proposition C" ballot measure in November 2012 resulted in the decrease of the set-aside requirement to 12% for on-site and 17% for off-site units (San Francisco Department of Elections, 2012).

It should be noted that since 2010, the RIAHP is technically a fee program, requiring a 20% contribution from developers, with option to build inclusionary units on-site or off-site.⁴² According to a City official, however, this has not changed the effect of the policy but legally protects the City from accusations of unlawful takings. It should also be noted that this study focuses only on the production of BMR units through San Francisco's inclusionary housing policy, and not the collection of fees from developers.

5.4.3 Implementation

All BMR units produced under the RIAHP are built by the private developer of the master project and are meant to reflect the project's market units in terms of both tenure and unit characteristics, including quality of construction, exterior appearance, and number of

⁴² The MOH updates the fee schedule annually (See Appendix 12). Fees are deposited into a Citywide Affordable Housing Fund, which is used towards administration of the RIAHP as well as towards other affordable housing programs (Chang, 2009).

bedrooms. This like-for-like production of BMR units ensures that the diversity of BMR units reflects that of market rate units, that the BMR units are equally attractive in terms of these characteristics, and that BMR units at least do not “[stand] out as an inferior product” (Chang, 2009). The precise number of units to be set aside is determined by the MOH,⁴³ and once construction of the entire project is complete, a staff member of the Planning Department designates which units are to be sold or rented at below-market rate. In other words, the developer does not know which units will be designated as below-market rate during project development and construction.

Unlike in Montreal, which indirectly stipulates a mix of tenure by requiring the production of both affordable condominiums and publicly subsidized social housing, no provision of the RIAHP stipulates a proportion of ownership versus rental units. Rather, BMR units reflect the tenure of the market units on a permanent basis; condo conversion of a building triggers conversion of the BMR units to ownership.⁴⁴ The long-term affordability of all BMR units is ensured on the title by deed of trust and through the City’s right of first refusal for 50 years, a term that is reset at resale. The MOH checks occupancy certification and income levels of tenants annually.

The RIAHP’s BMR program uses the U.S. Department of Housing and Urban Development (HUD) standard measure of affordability that assumes a household does not spend more than 30% of its income on housing costs. As in the case of Montreal, the MOH determines price thresholds for BMR units on the basis of household income, household size, and the number of bedrooms in the BMR unit. Units with a higher number of bedrooms are available only to income-qualifying households that are the size of the number of bedrooms in the unit, plus one. For instance, only a family of four or more may qualify for a three-bedroom BMR unit.

BMR units are generally targeted to households with higher incomes than those targeted for subsidized affordable housing programs. The RIAHP is totally separate from other local, state, or federal affordable housing production programs; inclusionary projects cannot have received public affordable housing subsidies (Mayor’s Office of Housing, 2013; See Table 5). Qualifying households are entered into a lottery, managed by the MOH, for the chance to buy a BMR for-sale unit.

⁴³ Application of the target percent of inclusionary units may yield numbers that are not whole and that must therefore be rounded up or down.

⁴⁴ As of May 2013. Tenants of BMR rental units retain first right of refusal, in which case they may purchase the unit for a price calculated on the basis of affordability for the target %AMI originally used for their BMR rental unit (Mayor’s Office of Housing, 2013, p. 77).

Table 5: Income groups by percent area median income (“% AMI”)

	Very low-income	0-50% AMI
Also considered to belong to broader category of “middle-income households”	Low-income	50-80% AMI
	Moderate-income*	80-120% AMI
	Above moderate-income*	120-150% AMI
Source: (City and County of San Francisco, 2012) (See Appendix 12 for 2013 AMI by household size)		

5.4.4 Yield⁴⁵

From 1992 through 2013, San Francisco’s inclusionary housing policy has yielded 1,391 on-site BMR units, including approximately 60% ownership units, in 118 inclusionary projects. Six units have been converted from rental to condominium. Most BMR units are in multi-unit buildings. There are no BMR single-family homes, although there are some townhomes with private front entrances.

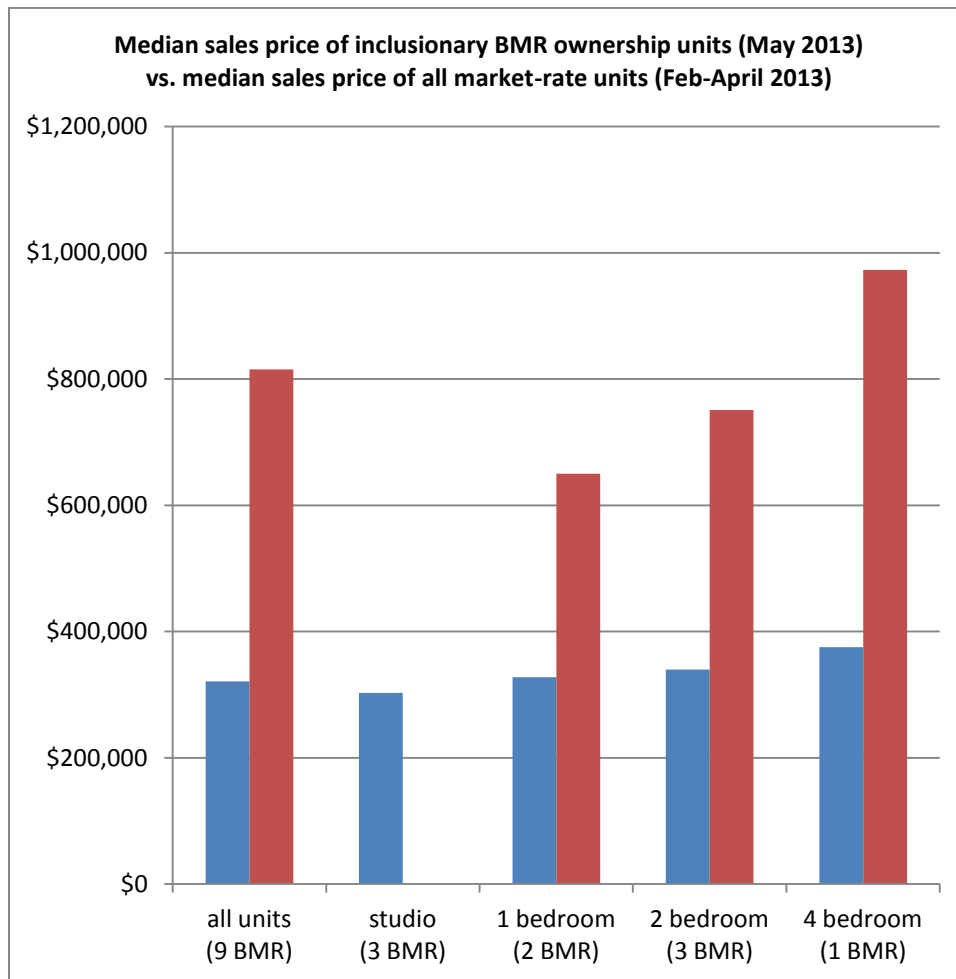
Production increased dramatically following the passage of the 2002 Leno Ordinance. However, the crash of the real estate market in the late 2000s and the resulting decrease in private market construction led to a corresponding slowdown in the construction of inclusionary units.

In May 2013, inclusionary BMR ownership units are listed at a median price of \$320,968 with a median monthly Homeowners Association fee of \$331 (Mayor's Office of Housing, 2013)⁴⁶ This represents a sales price that is affordable to a household earning between roughly 75% AMI (for a household of four) and 95% AMI (for a household of two).⁴⁷ During the same period, private homes in San Francisco were sold at a median price of \$815,000 (Trulia, 2013; See Figure 8).

⁴⁵ Data obtained from the Mayor’s Office of Housing for units completed through 2013. Tracking is done informally, so information is at times only approximate.

⁴⁶ 90% AMI is \$91,100 and 120% AMI is \$121,450 for a four person household (See Appendices 12 and 13)

⁴⁷ Percent AMI determined using a basic amortization schedule to determine monthly costs. Assumes 20% down payment and monthly HOA fee. Does not include utilities or property taxes. See Appendix 5 for methodology.

Figure 8: Median sales price of BMR inclusionary units vs. all market rate units

5.5 Production of multi-bedroom units

The San Francisco Planning Department does not track the number of bedrooms for each newly constructed unit. However, information from real estate listings serves as a rough proxy for the number of bedrooms for all newly constructed market rate units. Of the 139 listings for properties built in 2002 or later, half (49%) are studios or one-bedroom units while the other half have two or more bedrooms (Trulia, 2013).⁴⁸ Multi-bedroom units, considered to be more family-friendly, break down by number of bedrooms as seen in Table 6.

⁴⁸ Includes only those properties for which number of bedrooms is listed (139 out of 160 listings).

Table 6: Listings for recently constructed units by number of bedrooms (Trulia, 2013)

Unit type	N	%
Studio or 1 bedroom	68	49%
2 bedrooms	45	32%
3 bedrooms	18	13%
4 bedrooms	6	4%
5 bedrooms	2	1%
Source: Trulia (2013)		

5.5.1 RIAHP bedroom mix provision

Although the Mayor's Office of Housing does not specifically target the construction of larger BMR units as a matter of inclusionary housing policy as such, developers are required to build BMR units that mirror the characteristics of the market units of a master project, including in terms of number of bedrooms. This prevents private developers from minimizing costs by building exclusively units with a small number of bedrooms.⁴⁹ The bedroom mix provision of the RIAHP has been in place since the adoption of the original policy in 1992 and, according to a City staff member, did not generate any particular resistance from developers.

5.5.1.1 Implementation

The bedroom mix provision is enforced through several mechanisms. Section 415.6(c) of the San Francisco Planning Code states that BMR units constructed as part of an inclusionary project "shall be comparable in number of bedrooms, exterior appearance and overall quality of construction to market rate units in the principal project" (San Francisco Planning Code). This provision is mirrored in Section V.5 of the Monitoring and Procedures Manual of the RIAHP ("Manual") (Mayor's Office of Housing, 2013, p. 61).

The Planning Department is responsible for ensuring that BMR units are not clustered in a project and that they mirror market rate units in terms of their number of bedrooms and other characteristics. Once all units in a project are built, a City Planner designates the BMR units.

5.5.2 Multi-bedroom requirements in Special Plans

The bedroom mix provision of the RIAHP only requires developers to build BMR units that mirror market rate units in terms of their number of bedrooms. However, complementary multi-bedroom requirements imposed through Special Area Plans hold the potential to boost or at least ensure the production of larger inclusionary BMR units by encouraging developers to

⁴⁹ BMR units may, however, be up to 30% smaller than market units in terms of square footage (Mayor's Office of Housing, 2013).

build a certain proportion of private multi-bedroom units in all residential projects of a certain number of units or above.

As discussed in Chapter 5, the City of San Francisco has introduced several policies and programs to respond to a growing family housing squeeze. In addition, San Francisco's citywide housing policy document, the Housing Element of the General Plan of San Francisco Report, lays out in Objective 4.1 the need to provide housing for families through multi-bedroom requirements such as those found in Areas Plans, discussed below (City of San Francisco, 2011). The City justifies this objective by the fact that "much of the new housing constructed in the last decade was smaller studios and one-bedroom units" (ibid)⁵⁰ and that multi-bedroom units are too expensive for most families.

In spite of support at the level of the City for family housing policies as well as of pressure from advocates of families and children,⁵¹ the Planning Department has taken an indirect approach to imposing multi-bedroom unit requirements on developers. According to a City planner, instead of putting in place a citywide policy, which can be politically infeasible, "the way [the Planning Department] tend[s] to adopt new and more aggressive policies is to include them as part of an Area Plan." Such is the case for multi-bedroom requirements, in place as part of Area Plans since 2004.

The Rincon Hills Area Plan, adopted in 2004, was the first Special Plan to require that developers building projects of five residential units or more include 40% units with two or more bedrooms (City and County of San Francisco, 2005). It was followed by the adoption of the same requirement as part of the Eastern Neighborhoods (EN) Area Plans, adopted in December 2008 (San Francisco Planning Department, 2008; See Figure 9). Other types of Special Plans, such as Redevelopment Plans and Special Projects, tend to have even more demanding multi-bedroom requirements and, in some cases, affordability requirements beyond those required at the city level.⁵²

Multi-bedroom unit requirements as part of Area Plans (AP) aim not only to respond to family housing needs but also to take advantage of the projected high growth potential of certain areas of the city in order to augment production of multi-bedroom units. Although multi-bedroom requirements are set at the neighborhood level, according to a San Francisco planner the AP regulations are meant to have a city-wide impact by virtue of the fact that these plans cover the areas of highest projected growth.

⁵⁰ Approximately half, according to my own rough estimate (See Table 6).

⁵¹ See for instance Coleman Advocates for Children (www.colemanadvocates.org).

⁵² Special Plans other than the Rincon Hill and Eastern Neighborhoods Area Plans are not analyzed in this paper because to date they have yielded no inclusionary units.

Figure 9: Eastern Neighborhoods areas (San Francisco Planning Department, 2008)



5.5.2.1 Implementation

Unlike in the case of the RIAHP, which provides compliance alternatives, the AP multi-bedroom requirement is rigid and therefore, according to a City planner, more effective than past efforts by the City to incentivize the construction of larger units. The Planning Department does not grant variances from the multi-bedroom requirement. Developers receive approval to build only once the Planning Department has confirmed that the plans include the requisite percentage of multi-bedroom units.

Whether or not a multi-bedroom requirement such as the one in the EN Area Plans may serve to boost the effects of an IH bedroom mix provision remains unclear for two reasons. Firstly, in the case of the Eastern Neighborhoods, so far few data exist concerning the number of bedrooms in new units in the area. Secondly, a more in-depth analysis is necessary to determine whether the 40% multi-bedroom requirement imposed on developers might in fact result in *fewer* such units given that, to date, slightly over half of units in inclusionary projects have had two or more bedrooms.

Multi-bedroom requirements as part of Special Plans are the result of both City policies to encourage construction of larger units and advocacy on the part of groups representing the

interests of children and families. However, resistance to this requirement has come from at least two groups. Although no private developers were interviewed as part of this project, a City planner describes strong resistance from developers who report a loss in profits due to the slower absorption of larger units. At the same time, some housing advocates criticize the multi-bedroom requirement because although it may result in more construction of multi-bedroom units, such units are not necessarily occupied by families.⁵³

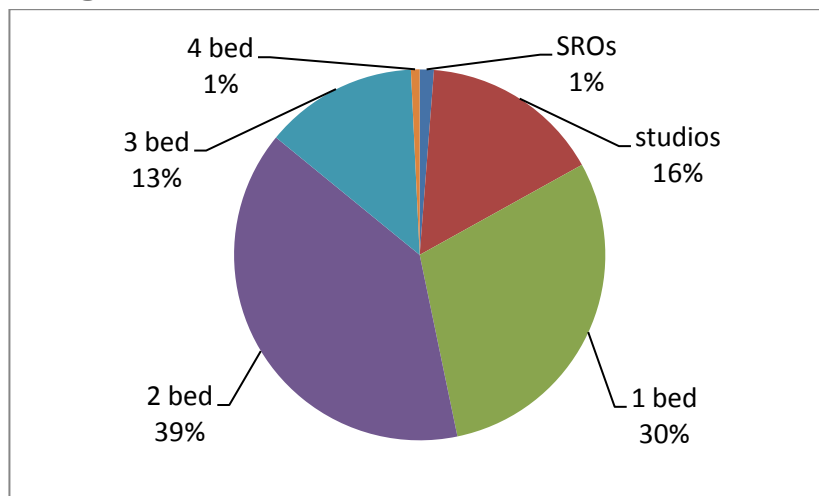
5.5.3 Yield of multi-bedroom units

Of the inclusionary BMR units produced through San Francisco's IH policies since 1992, over half (53%) have two or more bedrooms, including 38% with two bedrooms, 13% with three bedrooms and 1% with four bedrooms.⁵⁴

As of 2013, eight inclusionary projects have been completed in the Eastern Neighborhoods, yielding 100 of the total 1,391 BMR units. In addition, one project in Rincon Hills has yielded 49 BMR units. However, lack of complete information regarding the number of bedrooms in these units makes it impossible to gauge the success of the multi-bedroom requirement in the Eastern Neighborhoods Area Plans.

As expected, given that inclusionary BMR units are meant to mirror market rate units in terms of number of bedrooms, the production of inclusionary multi-bedroom BMR units corresponds to the bedroom mix of newly constructed units, as estimated using real estate data (See Figure 10).

Figure 10: Number of bedrooms, on-site BMR units



⁵³ In the case of BMR units, however, a multi-bedroom unit must be occupied by a household of at least three people.

⁵⁴ Number of bedrooms is known for 1,048 out of 1,391 inclusionary units.

5.5.4 Limitations of available data

At present, although the number of bedrooms is known for 75% of total BMR units produced through the RIAHP since 1992, a thorough analysis of the impact of the Area Plan bedroom mix requirement is not possible due to the lack of complete information concerning the number of bedrooms per unit in areas affected by the Area Plans. One planner with the City estimates that roughly a quarter of all units built in the Eastern Neighborhoods contains two or more bedrooms.⁵⁵ However, of the nine inclusionary projects containing BMR units in the Eastern Neighborhoods and in Rincon Hill, the number of bedrooms per unit is known only in two cases, for a total of only four out of 149 BMR units.

Furthermore, the Planning Department of the City of San Francisco currently lacks a system for tracking the number of bedrooms per newly constructed unit. Analysis of the number of bedrooms per new unit would require a separate study that is beyond the scope of this paper. Therefore, without a more rigorous basis for comparison with private market production of multi-bedroom units, it is not possible to conclusively determine the extent to which the RIAHP and other regulatory measures have increased the production of multi-bedroom units. Indeed, although City staff interviewed for this study agreed that the bedroom mix provision of the RIAHP was successful in that it yielded a high proportion of multi-bedroom BMR units, they also stated that they do not know whether the Area Plan bedroom mix requirement changed the effect of the bedroom mix provision of the RIAHP.

5.6 Conclusion

Analysis of the San Francisco Residential Inclusionary Affordable Housing Program (RIAHP) offers insight into the potential and the limitations of promoting construction of family-friendly below market rate units through inclusionary housing. This section has also investigated the extent to which bedroom mix requirements may boost this potential by encouraging construction of private multi-bedroom units.

San Francisco's policy has always included a bedroom mix provision, which requires that below market rate inclusionary units reflect market rate units in terms of their number of bedrooms. This provision prevents developers from compensating for the cost of setting aside below market rate (BMR) units by building BMR units that are smaller and therefore less expensive to build. As a result of this provision, slightly over half of BMR units produced through the RIAHP have included two or more bedrooms.

However, a bedroom mix provision only requires the developer to set aside BMR units that reflect the market rate units. Therefore, if the private market were to demand only smaller

⁵⁵ It is important to note that this percentage is lower than the bedroom mix requirement objective of 40% units with two or more bedrooms because this requirement applies only to projects of five units or more.

units, an inclusionary housing policy with a bedroom mix provision would yield only smaller units. In the case of San Francisco, however, a multi-bedroom requirement has been imposed in certain zones subject to special area plans in order to ensure that a certain proportion of all new units contains two or more bedrooms. While methodological limitations prevent a thorough analysis of its impact, San Francisco's multi-bedroom requirement holds promise as a measure to complement and to boost the impact of inclusionary housing through intervention in private construction, especially in areas of high projected growth.

Chapter 6

Affordable Requirements Ordinance (Chicago, IL)

This chapter gives an overview of inclusionary housing in Chicago before analyzing how the recently formed monitoring body, the Chicago Community Land Trust (CCLT), fits into Chicago's policy. I discuss how the CCLT departs from traditional mechanisms used to ensure long-term affordability of inclusionary ownership units. I pose the following questions:

- 1) To what extent is the Chicago method of monitoring long-term affordability of units unique in the context of inclusionary housing?*
- 2) What are the advantages of outsourcing the monitoring of inclusionary units to a municipally-sponsored organization such as the CCLT?*

6.1 Introduction

As discussed in Chapter 4, the lack of mechanism to ensure the preservation of private affordable inclusionary units in Montreal ultimately results in the loss of those units to the private market. Although the private affordable component of the Montreal Inclusionary

Housing Strategy (MIHS) may help some households buy their home at an affordable price, it fails to increase affordability in the long term.

According to various comparative studies and surveys of inclusionary housing policies, most programs require that units produced through inclusionary housing (IH) remain affordable over the long term (Innovative Housing Institute, 2010; Gladki & Pomeroy, 2007; Jacobus, 2007). During the period of affordability, if the unit is resold its affordability is transferred to the new owner. Permanently affordable units cannot be sold at market value. There is widespread agreement on the importance of having a mechanism to ensure both “investment retention” on the part of the City (Towey, 2009) and “long-term affordability” to ensure that affordable units are not lost to the market at resale (Davis, 2006); these two principles are “two sides of the same coin” (ibid).

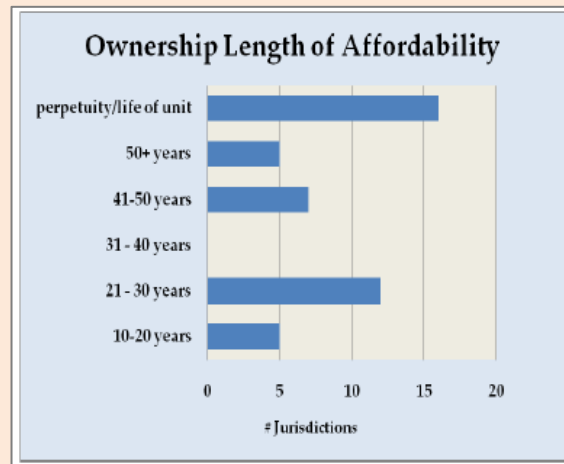
A 2008-2010 survey of 52 US jurisdictions with inclusionary housing policies revealed that most required units to remain affordable over the long term (Innovative Housing Institute, 2010). For-sale affordable units are most commonly required to remain affordable in perpetuity, although many policies require affordability for shorter periods (See Figure 11).

It should be noted that this paper does not offer an in-depth analysis of affordability preservation mechanisms, nor does it identify the optimal tool for Montreal, as such an analysis lies beyond the scope of this paper. However, the case study analysis of another large city that has addressed the issue of

preservation of inclusionary units in a unique way helps to shed light on how a City, through inclusionary housing, may act as a steward of housing affordability.

In this chapter I examine Chicago’s inclusionary housing policy, which has the particularity of involving a separate organization to preserve long-term affordability through a limited equity model of ownership. Such a model allows the transfer of affordability to future buyers of units as well as the retention of subsidies and other forms of investment. At the same time, a shared equity system allows each successive owner of the unit to access a part of the asset-building potential of homeownership. Hence, a shared equity homeownership program lies on the “Asset Building/Affordability Continuum” as shown in Figure 12 (Jacobus & Lubell, 2007).

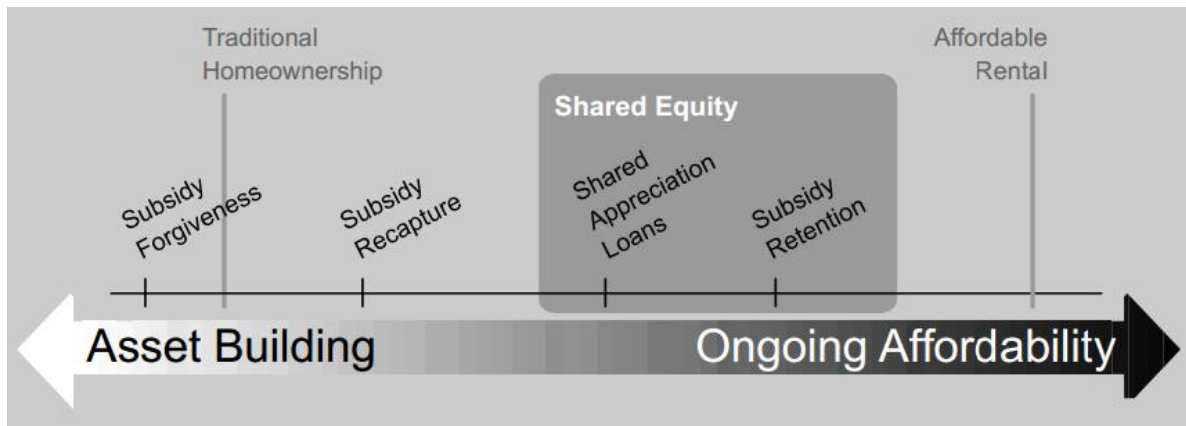
Figure 11: Length of Affordability for inclusionary Ownership units



(total: 52 jurisdictions)

Source: Innovative Housing Institute (2010)

Figure 12: Asset Building/Affordability Continuum



The Chicago Community Land Trust (CCLT), established in parallel with Chicago’s Affordable Requirements Ordinance (ARO), holds inclusionary ownership units and guarantees that their affordability is not lost at resale. Although most inclusionary housing policies in the U.S. include resale restrictions, “the use of a separate organization like the Chicago Community Land Trust to administer the on-going affordability requirement” has been described by the Wellesley Institute (2009) as “relatively unique” because long-term affordability of inclusionary units is typically monitored in-house.

6.2 Context

6.2.1 Housing Affordability in Chicago⁵⁶

Analysis of housing affordability in Chicago reveals a complex picture. At the time of the adoption and amendment of Chicago’s inclusionary housing policy in the early 2000s, the city was experiencing a sharp increase in housing costs that corresponded to the real estate boom of the early and mid-2000s. From 2000 to 2008, the median sales price of homes increased by 127%⁵⁷ and median monthly gross rent rose by 49%.⁵⁸ During the same period, however, median household income in the region increased by only 20%.⁵⁹ The proportion of households paying over 30% of their income on housing costs increased during this period by 32.5% among renters and by 78.1% among homeowners (Chicago Rehab Network, 2013).

⁵⁶ Population in 2010 of 2.7 million for City of Chicago (U.S. Census, 2013) and 9.5 million for the MSA (U.S. Census, 2013).

⁵⁷ Median sales price in January 2000 was \$145,000 and rose to \$329,000 by late 2008. Current median sales price (as of May 2013) is \$200,000 (Trulia, 2013).

⁵⁸ From \$616 in 2000 to \$916 in 2010 (Chicago Rehab Network, 2013).

⁵⁹ Increase from 2000 to 2011. Median household income for the Chicago, IL MSA (“Chicago-Naperville-Joliet, IL-IN-WI”) was \$51,680 in 2000 and \$62,246 in 2011. (U.S. Census, 2000).

It is essential to note that the real estate landscape of Chicago has changed drastically since the push for inclusionary housing. Although the ARO was passed and amended during a time of rising home prices disproportionate to the rise in income, between 2009 and 2011 median home sales prices decreased by 22% due to the housing crash (Chicago Rehab Network, 2013). Median home sales price is currently \$200,000,⁶⁰ which is relatively affordable: a household earning a gross income of \$38,600, representing roughly 60% AMI, could afford a home at this price.⁶¹

However, this market adjustment does not solve problems related to lack of affordable housing. In fact, as of 2010, about half of renters and half of homeowners were paying more than 30% of their income on housing costs (Chicago Rehab Network, 2013). Predictably, this burden is felt most acutely among low-income households. However, the proportion of housing cost-burdened households earning median income and above is notably higher among homeowners and represents a greater increase since 2000 when compared with renters (See Table 7). This indicates that, in fact, lack of housing affordability is a major challenge for homeowners earning a wide range of income levels.

Table 7: Cost Burdened Households by Income Level in Chicago

	renters		owners	
income level	2000	2010	2000	2010
Less than \$25,000	72.8%	89.9%	66.7%	88.2%
\$25,000 to \$49,999	38.7%	59.2%	42.1%	65.6%
\$50,000 to \$74,999	5.8%	13.6%	19.0%	51.9%
\$75,000 or more	N/A	3.1%	4.0%	18.1%
source: Chicago Rehab Network (2013)				

Affordable housing advocates have been concerned that the increasing lack of housing affordability will ultimately result in the displacement of low and moderate-income households. From 2000 to 2010, Chicago saw a 47% increase in households earning at least \$75,000, which represents 120% of 2011 regional median household income for the Chicago Metropolitan Statistical Area (MSA) (U.S. Census, 2011) and 158% of median income for City of Chicago households.⁶²

⁶⁰ Includes both new and existing home sales.

⁶¹ Based on U.S. Census median income for Chicago PMSA of \$62,246, which is not adjusted for size of household (U.S. Census, 2011). See Appendix 5 for methodology.

⁶² See Appendix 14 for map of City of Chicago and MSA. Median household income within limits of the City of Chicago, \$47,371 in 2011 (U.S. Census, 2011), is consistently lower than for the region.

6.2.2 Political context

Power in Chicago has historically been concentrated, with a politically strong mayor who holds considerable influence over the City Council's fifty local representatives, called aldermen (Simpson & Kelly, 2008). Local politicians, in turn, enjoy "aldermanic prerogative," an "unwritten rule of Chicago politics" whereby aldermen have substantive powers over issues concerning their ward, especially in matters of land use and zoning (Zhang, 2011).

At the same time, Chicago boasts a mature and active community development sector that has historically played an important role in shaping housing policy at the municipal level and beyond; in fact Chicago's community development sector is considered to be among the strongest of U.S. cities (Immergluck, 2005). This Chapter focuses specifically on the role played by the affordable housing sector, which comprises various community-based organizations that perform activities ranging from community organizing and capacity-building to development of residential projects for low and very low-income households. Although dozens of organizations fit under the umbrella of Chicago's affordable housing sector, it is important to note that these organizations have more or less the same goal of increasing housing affordability, especially for low and very low-income households, and that they frequently form coalitions to push various affordable housing-related agendas.

6.2.3 Housing policy

Chicago, one of the largest U.S. cities to adopt an inclusionary housing policy, is widely considered to be a "developers' town" in which the broader community, rather than the development industry, assumes the costs of providing affordable units (Ranney, Wright, & Zhang, 1997; National Housing Institute, 2003; Brunick, 2007).⁶³ According to housing advocates interviewed for this paper, at the time of the campaign to adopt an inclusionary housing policy, the administration of then-Mayor Richard M. Daley resisted inclusionary housing on the grounds that it would slow private development, as classical economics predicts (See Section 3.2).

New construction of affordable housing⁶⁴ in Chicago is typically done by non-profit development corporations rooted in specific neighborhoods and communities. Currently, affordable housing projects benefit from a range of municipal, state and federal resources.⁶⁵ Such projects overwhelmingly target low and very low-income households. Higher on the spectrum of income targets, increasing access to homeownership for middle-income households is an important guiding principal of housing policy in Chicago. The most important precedent for helping middle-income Chicagoans to purchase newly constructed single-family

⁶³ It is interesting to note that Brunick (2007) explicitly contrasts Chicago with San Francisco where, he argues, the development community assumes more of the costs of developing affordable housing.

⁶⁴ As noted earlier, the term "affordable housing" here refers to homes built and managed by the non-profit sector with the intent of keeping units affordable.

⁶⁵ For a summary see Thompson (2009).

homes through a City program, New Homes for Chicago (NHFC), has directly informed Chicago's inclusionary housing program in terms of its system for ensuring long-term affordability of units (See Appendix 15 for summary of NHFC).

In spite of historical lack of support from the mayoral administration, leaders in the affordable housing sector, which engages in affordable housing development as well as in lobbying and organizing campaigns, have advocated for the use of alternative models of homeownership for years. According to advocates interviewed for this paper, efforts to promote shared equity cooperatives and land trusts have had very limited success in Chicago. Until recently the City administration has historically showed little interest in developing such models at the City level, and lack of federal and local funding has limited the non-profit sector's potential to develop housing using a shared equity model (Barnds, Glas, Glesne, Saravia, Wright, & Zelalem, 2004). Besides the recently created CCLT, which I analyze in later sections of this chapter, the only body that offers a long-term limited equity homeownership model is the First Community Land Trust of Chicago (FCLTC), a very small neighborhood-based community land trust established in 2003 (West Humboldt Park Development Council, 2013; See Appendix 16 for summary).

6.3 Inclusionary Housing in Chicago

The City of Chicago is part of the recent movement to adopt IH policies in large urban centers, and in 2006 became the largest U.S. city with an across-the-board inclusionary housing policy. Inclusionary housing in Chicago has mirrored broader trends in that the City adopted a city-wide IH policy, the Affordable Requirements Ordinance (ARO), after experimenting for several years with a voluntary, piecemeal approach (Brunick, Goldberg, & Levine, 2004). Like other urban inclusionary housing policies examined in this report, Chicago's ARO is motivated by the need to promote balanced development to accommodate a diversity of households. The aspect in which Chicago's policy differs the most from other urban inclusionary housing policies—the use of the Chicago Community Land Trust to monitor the for-sale component of its inclusionary housing program—is the focus of this chapter.

6.3.1 History and objectives

Chicago's inclusionary housing policy originated during the housing boom of the early- and mid-2000s. Efforts on the part of a coalition of affordable housing advocates to promote “balanced development” rather than gentrification led to the adoption of the voluntary Affordable Requirements Ordinance (ARO) in 2003, which allowed for the voluntary inclusion of affordable units in exchange for financial assistance or discounted land from the City (Wellesley Institute, 2009). In spite of its initial lack of support for an affordable housing set-aside, the Daley mayoral administration itself introduced the ARO, which, although it fell short of the

goals set by advocates, nevertheless represented a major victory for proponents of inclusionary housing (Lakeview Action Coalition, 2007; Wellesley Institute, 2009).

The gradual broadening of the ARO and its evolution from a voluntary to a mandatory policy mirrors changes seen in many other inclusionary housing policies. The current ARO was preceded by a set of voluntary, incentive-based inclusionary programs that were believed by the Mayor to carry less potential to drive away development (Brunick, 2007). When first adopted in 2003, the ARO applied only in cases where projects had received direct financial assistance from the City.

Parallel to the voluntary ARO, the Community Partnership for Affordable Neighborhoods (CPAN) program used regulatory incentives to encourage developers to voluntarily contribute to the city's affordable housing stock. The CPAN program was implemented to different degrees throughout the city, depending on support for the policy by local aldermen. Although CPAN created close to 500 affordable units from its creation in 2002 through 2007, when it stopped producing new inclusionary units, the program was limited by virtue of its voluntary nature. Brunick (2007) summarizes its shortcomings as follows:

CPAN creates unpredictability in the development process, fails to establish a level playing field for developers and neighborhoods, and creates the potential for differential treatment for developers based on political clout.

Due to the push for a more predictable and fair inclusionary policy by advocates in both the affordable housing sector and the development industry, the ARO was revised in May 2007 to be mandatory and to apply to a broader range of projects (City Council of the City of Chicago, 2009). The broadening of the ARO in 2007 represented a victory for affordable housing advocates, although the Balanced Development Coalition's campaign report speculates that more far-reaching changes might have been adopted if the Mayor had not pushed for revision of the policy just before a major election.

6.3.2 Current policy⁶⁶

Chicago's current inclusionary housing program consists of two parallel policies: the ARO broadly applies to residential development in Chicago's neighborhoods and directly yields inclusionary units and in-lieu fees, while the Downtown Affordable Housing Density Bonus program, set forth in Section 17-4-1004 of the Chicago Zoning Ordinance, applies to residential development in Chicago's Central Business District (CBD) and mostly generates in-lieu fees that are then applied to other affordable housing programs.

6.3.2.1 Affordable Requirements Ordinance (ARO)

The Affordable Requirements Ordinance (ARO) is found in Section 2-44-090 of the Municipal Code. It requires the setting aside of 10% of units as affordable in residential

⁶⁶ Unless otherwise indicated, information taken from interviews with City of Chicago staff person.

development projects of ten units or more that meet one of the following criteria: the project was granted a zoning change, is built on land purchased from the City, benefits from financial assistance from the City, or is part of a Planned Development in the downtown area. Projects benefitting from financial assistance from the City must set aside 20% of units as affordable.

Inclusionary affordable units are meant for moderate-income households, with rental units targeted to households earning 60% AMI and ownership units to households earning 100% AMI.

The Municipal Code guarantees that inclusionary units remain affordable for a minimum of thirty years through a 'soft second' mortgage (See Section 6.3.5). However, as of 2006, for-sale units remain affordable through resale restrictions imposed for a longer term. Currently, a 99-year restrictive covenant is recorded on the deed of inclusionary ownership units. I will return to this system of long-term affordability later in this chapter.

6.3.2.2 Compliance alternatives

Instead of building affordable units, a private developer may opt to pay a fee of \$100,000 per required affordable inclusionary unit (adjusted annually). Funds are deposited into the Affordable Housing Opportunity Fund (See Section 6.3.3).

For projects in Chicago's CBD, developers may choose to adhere either to the requirements of the Affordable Housing Zoning Bonus program or of the ARO. In place in 2004 before the most recent version of the ARO, the Affordable Housing Zoning Bonus⁶⁷ requires a contribution of either units or an in-lieu fee in exchange for an increase in allowed density. However, developers almost always opt to pay the fee in lieu of building affordable inclusionary units (Department of Housing and Economic Development, 2009-2013).

⁶⁷ often referred to as the Downtown Density Bonus.

Table 8: Current IH requirements in Chicago (May 2013)

	Set aside			Income target (in % Chicago Primary Metropolitan Statistical Area median income—"AMI")	
	Baseline	For projects receiving financial assistance from City	Payment in-lieu	Rental	Ownership
Affordable Requirements Ordinance <i>Section 2-44-090</i>	10%	20%	\$100,000 per unit*	60% AMI	80%-120% AMI
Affordable Housing Zoning Bonus ("Downtown Density Bonus") <i>Section 17-4-1004</i>	25% of total increase in floor area		Δ allowable floor area resulting from rezoning × 80% of the median cost of land per buildable square foot		

*to be adjusted annually; payments go to the Affordable Housing Opportunity Fund
Source: Department of Housing and Economic Development (n.d.)

6.3.3 Implementation

Inclusionary units produced through the ARO are built by the private developer of the master project. Before submitting a project proposal to City Council for approval, as a matter of informal policy the developer must obtain a letter of support from the local alderman, without which City Council is unlikely to approve the project.⁶⁸ Once City Council has approved the project, the Department of Housing and Economic Development (HED), which is the main body responsible for the implementation of the ARO, reviews development applications and determines the details of project inclusion. For instance, according to the current ARO coordinator, HED ensures as a matter of practice that affordable inclusionary units reflect the market rate units in terms of their tenure, size and number of bedrooms. Unlike in the case of San Francisco, however, these specifications are not codified.

Subsequently, affordable inclusionary rental units are managed by the HED, which processes tenant applications and monitors long-term affordability of units. The Chicago Community Land Trust (CCLT), which is the subject of a more in-depth analysis in Section 6.4, is

⁶⁸ According to a City staff member this requirement is practiced but not codified.

a municipally-sponsored, private non-profit corporation that has managed affordable ownership units produced through the ARO since 2006.

In the case that a private developer opts to pay a fee in lieu of constructing inclusionary units, funds go to the Affordable Housing Opportunity Fund, which is also managed by the HED. Forty percent of the revenue from the Affordable Housing Opportunity Fund is deposited into the existing Chicago Low-Income Housing Trust Fund, managed by a non-profit organization with a structure similar to that of the CCLT. The Trust Fund is used to support a rental subsidy program for very low- and extremely low-income households (0-30% AMI). The remaining sixty percent of Affordable Housing Opportunity Fund revenue is not allocated in a systematic way but rather is subject to appropriation by City Council for the general purpose of constructing or rehabilitating affordable housing (City of Chicago, n.d.).

6.3.4 Yield⁶⁹

Since its initial adoption in 2002 the ARO has resulted in the pledging of 745 affordable units, including 70 rental and 675 ownership units.⁷⁰ All ownership units are single-family homes.

At the moment of the adoption of the ARO, it was projected that the new policy would produce 1,000 long-term affordable units each year (Brunick, 2007). However, largely as a result of the economic downturn of the late 2000s, the number of affordable units produced through the ARO has fallen short, by far, of reaching these projections.

According to a City staff person, there has been virtually no residential development in Chicago since the housing market crash. A recent pick up in residential development has been concentrated in the downtown area where, because of high land and construction costs, developers tend to pay the \$100,000 fee in lieu of building inclusionary units.

6.3.5 Long-term affordability of inclusionary units

Prior to the establishment of the CCLT in 2006, City affordable ownership units, including those produced through the ARO, were kept affordable for 30 years through a “recapture mortgage,”⁷¹ which requires homeowners selling the unit before the end of the thirty year period to repay a portion of the loan equivalent to the difference between market and affordable price.⁷² Affordable inclusionary ownership units produced through the ARO before the establishment of the CCLT still carry a thirty year recapture mortgage.

⁶⁹ Unless otherwise indicated, data obtained from HED staff person.

⁷⁰ Due to the lag between project development and delivery of units, not all units have been built or sold. Note that ARO units are part of the CCLT only once they are occupied (See Section 6.4.1).

⁷¹ Also known as a “silent” or “soft” second mortgage, which only requires repayment at resale.

⁷² Example: A household has purchased an affordable unit valued at \$175,000 with a \$75,000 recapture mortgage through the City to compensate for the difference between market rate (\$175K) and affordable price (\$100K). Scenario A: Five years later, the difference between market rate and affordable price (calculated based on what is affordable for a target-income household) is greater than \$75,000. The loan must be repaid with 3% interest.

Since the CCLT has been in existence, inclusionary ownership units are kept affordable through a restrictive covenant recorded on the property deed. Contrary to what the name of the body suggests, the long-term affordability mechanism used in the CCLT is different from that used in a traditional community land trust (CLT). Rather, the CCLT uses a “deed-restricted home” model (Davis, 2006) wherein the buyer fully owns the property but shares a part of the equity, in this case with the City. Many municipalities use this model, including San Francisco, the focus of the other case study in this paper.

The CCLT covenant restricts resale of the home for 99 years and is renewable. During this period, buyers must qualify to purchase a unit on the basis of their household income. The resale price of a CCLT unit, which is calculated on the basis of a percentage of market value increase, may rise up to the affordability threshold for a household earning 120% of AMI (Drdla, 2010; See Table 9).

Table 9: Allowed increase in resale price for CCLT units

Increased market value (=FMV – affordable price)	Allowed % of increased market value received by seller
Less than \$50,000	25%
\$50,000 to \$100,000	20%
\$100,000 to \$150,000	15%
over \$150,000	12%
Source: Drdla (2010)	

Through a special arrangement between the City of Chicago and Cook County, CCLT properties are taxed not on the basis of their appraised value but rather on their affordable price (Jacobus & Brown, 2007). This represents an additional, hidden subsidy for affordable homes. According to one member of the CCLT Board of Directors a major shortcoming of previous homeownership programs such as New Homes for Chicago was that buyers had struggled to pay high property tax bills on units purchased at an affordable price. This measure is particularly important in the context of inclusionary housing, because an affordable unit placed among market rate units in a new development will tend to carry a heavy property tax burden.

Currently, 23 out of the 675 affordable inclusionary ownership units produced through the ARO are managed by the CCLT and are therefore guaranteed to be affordable through a deed-restricted covenant. In all other cases, affordability of ownership units is preserved through a recapture mortgage.

Scenario B: five years after initial purchase, the difference between market rate and affordable price is only \$50,000. The household must then repay only \$50,000 at 3% interest.

6.4 The Chicago Community Land Trust

In a relatively unique system, as far as inclusionary housing policies go, affordable ownership units produced through the ARO are monitored not in-house by the City but by an autonomous entity created by the City, the Chicago Community Land Trust (CCLT) (Wellesley Institute, 2009). The Chicago Community Land Trust is a misnomer given that the CCLT differs from the ground lease model of traditional community land trusts. The CCLT is a “land trust without land” (Towey, 2009). In accordance with the deed-restricted home model, the CCLT ensures the long-term affordability of inclusionary for-sale units through a restrictive covenant recorded on the deed of the unit in favor of the CCLT. The CCLT also performs outreach to homeowners, who are charged a yearly symbolic \$25.00 covenant fee.

Whereas other cities typically manage inclusionary units in-house, Chicago instead established a hybrid monitoring system involving: 1) a division of the existing Department of Housing and Economic Development (HED), which manages rental inclusionary units and ownership inclusionary units developed prior to 2006; and 2) the new Chicago Community Land Trust, a non-profit corporation that monitors inclusionary ownership units built since 2006.

The CCLT was established by City Council Ordinance in January 2006 and has as “its primary mission the preservation of long-term affordability of housing units” (City of Chicago, n.d.). Grants from the MacArthur Foundation totaling \$411,000 supported the design and establishment of the CCLT (Towey, 2009). The CCLT is officially separate from the City, although as I discuss below the City retains a high degree of control over the CCLT.

6.4.1 Portfolio

According to its former Executive Director, the Chicago Community Land Trust, which monitors affordable for-sale units produced through various programs (including the ARO), was projected to grow by 100 units in 2008 and by between 150 and 200 units each year thereafter (Jacobus, 2010). The Chicago Community Land Trust, which contains all inclusionary ownership units produced since its establishment in 2007, currently has 68 units, a third of which (23) were produced through the ARO.⁷³ To the extent that for-sale inclusionary units may have been pledged but not yet built, these units are not yet part of the CCLT as they have no owner.

6.4.2 Structure

The structure of the CCLT and its relationship with the City of Chicago is complex (See Figure 13). As mentioned earlier, the CCLT is officially a separate non-profit corporation.⁷⁴ Yet, it

⁷³ ARO units become part of the CCLT once they are occupied. Other CCLT units include one third NHFC and one third CPAN units.

⁷⁴ The hybrid structure of the CCLT is not completely foreign to the City of Chicago. The Low-Income Housing Trust Fund, which uses money collected from several programs to serve the needs of low and very low-income rental

is closely tied to the City of Chicago and reflects an emerging model of “municipally sponsored CLTs” that represents a departure both from traditional community land trusts (CLTs) and from the role municipalities have traditionally played in promoting and preserving affordable housing (Jacobus & Brown, 2007).⁷⁵ While the structure of the CCLT allows for direct collaboration between the City and the non-profit affordable housing sector, the City retains a high degree of control over the organization.

6.4.2.1 Staff

CCLT staff consists of two employees in the Homeownership Center of the Bureau of Housing of the Department of Housing and Economic Development (HED), including an Executive Director and an Outreach Director (City of Chicago, 2013; See Appendix 17). They are responsible for monitoring CCLT units, including all affordable ownership units yielded by the ARO, as well as for reaching out to current and prospective CCLT homebuyers.⁷⁶ CCLT staff is accountable to the organization’s Board of Directors, although they are hired and paid by the City.

6.4.2.2 Board of Directors

The CCLT Board of Directors, whose members include leaders in real estate development, in community development, and in affordable housing development and advocacy, is responsible for overseeing the CCLT and for developing its policies. This policy development role is important considering that the municipally sponsored CLT model is new (Jacobus & Brown, 2007), and that the model will need to adapt to emerging challenges. For instance, according to several of its members, the CCLT Board is currently developing a system to allow the acquisition of existing properties. It is important to note, however, that although it is related to the city’s inclusionary housing policy, according to several informants the role of the CCLT Board does not include directly influencing the ARO policy itself.

Members of the CCLT Board are appointed by the Mayor and approved by City Council, unlike in traditional CLTs where Board members are typically elected by the broader membership (Jacobus & Brown, 2007). CCLT Board membership largely mirrors the advisory group with which the City consulted to develop the CCLT in the early 2000s (Office of the Mayor of Chicago, 2005) and overlaps considerably with membership of the Balanced Development Coalition that pushed for adoption of an inclusionary policy in Chicago (See Appendix 18). In

households, is also a non-profit corporation with a mayorally appointed Board of Directors (Chicago Low Income Housing Trust Fund, n.d.).

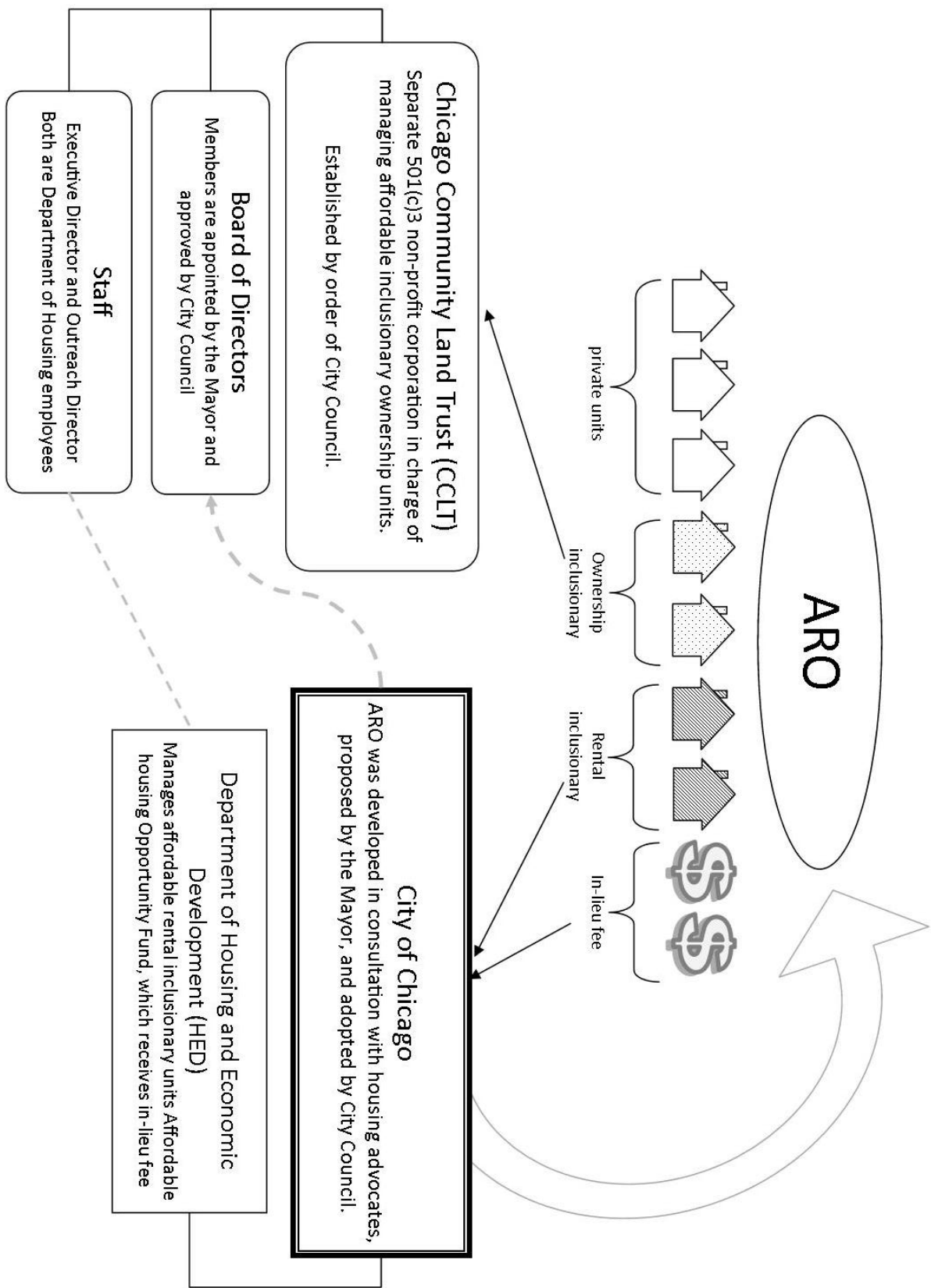
⁷⁵ Note that here the abbreviation “CLT” refers generically to community land trusts, while “CCLT” refers to the Chicago Community Land Trust.

⁷⁶ Between 2010 and May 2013 the same person simultaneously held the position of ARO Coordinator at the HED and of Executive Director of the CCLT. This overlap is atypical of the CCLT and reflects a period of transition from the CCLT Executive Director’s previous post. Still, such overlap serves to illustrate the close relationship between the CCLT and the City.

Day, 2013

fact, out of fifteen Board members, five members work or have worked in the past for member organizations of the Balanced Development Coalition that pushed for inclusionary housing in Chicago. Once the number of units belonging to the CCLT reaches 200, one third of the members of the Board is meant to be made up of CCLT homeowners. The CCLT has yet to reach this benchmark.

Figure 13: Relationship between the CCLT and the City of Chicago



6.5 Conclusion

Examination of the Chicago Community Land Trust (CCLT) sheds light on how a City may act as a steward of housing affordability through the establishment of a municipally-sponsored organization. It is important to acknowledge that the CCLT was put in place by the City for a variety of reasons related to housing affordability, of which inclusionary housing is just one. Still, the CCLT is directly related to the city's inclusionary policy, the Affordable Requirements Ordinance (ARO), in that it monitors inclusionary ownership units. Thus, both the CCLT and the ARO fit within a broader context characterized, on one hand, by efforts on the part of affordable housing advocates to preserve housing affordability throughout the city and, on the other hand, by the desire on the part of the City of Chicago to deploy affordable housing resources more efficiently.

Although the CCLT model is indeed unusual and reflects Chicago's specific political context, it offers an example of a model for protecting long-term affordability of inclusionary units through an organization that, while municipally sponsored, also officially represents the point of view of other affordable housing professionals. It bears repeating that despite its name, the CCLT in fact departs greatly from the traditional community land trust (CLT) model. Still, the CCLT draws inspiration from the traditional land trust model in that it is meant to act as the steward of permanently affordable housing units and in that it is shaped by affordable housing advocates.

The CCLT represents an experiment in preserving housing affordability for municipally subsidized homes and, as such, is in evolution. In many ways, which are explored in further detail in Chapter 7, the CCLT falls short of realizing the vision of either the City or the affordable housing sector and therefore reveals many of the challenges of preserving long-term affordability through such an organization. Nevertheless, the analysis of the CCLT allows us to gain insight into one innovative model of preservation of affordable housing.

Chapter 7

Lessons for Montreal

The purpose of the present Chapter is to analyze the implications of case study findings for the Montreal context. I discuss the feasibility and applicability of interventions found in each of the two case studies for Montreal. This analysis serves as the basis for recommendations made in Chapter 8.

Evaluation of the results of the private affordable ownership component of the Montreal Inclusionary Housing Strategy (MIHS) suggests that the policy has been relatively successful in that it has generated the potential for approximately 4,000 private affordable inclusionary units.⁷⁷ However, the emergence of several challenges indicates that the mere number of units built or potentially generated is an inadequate indicator of the success of this part of the inclusionary housing (IH) policy. In Chapter 4 I analyzed several limitations that threaten the long-term viability of the MIHS. Two of those issues have served as the focus of the present paper:

- **The MIHS presently contains no provision to encourage the construction of private affordable ownership housing that is suitable for families.** In the absence of clear requirements concerning private affordable inclusionary units, developers tend to build units that are small both in terms of square footage and in terms of number of bedrooms. Yet, the retention of families with children is presently a key objective of the City of Montreal. The MIHS does not adequately address this objective.

⁷⁷ As of April 2013.

- **The policy lacks a mechanism for ensuring the long-term affordability of private affordable inclusionary units.** Currently, only first buyers of private affordable inclusionary units benefit from the affordability created as a result of the MIHS. This sets the MIHS apart from other IH policies, most of which include a system for guaranteeing long-term affordability of inclusionary units. Furthermore, the lack of long-term affordability mechanism represents a lost opportunity to ensure that the MIHS in fact increases affordability instead of simply promoting residential development and subsidizing homeownership.

This chapter analyzes various inclusionary housing policy tools and programs found in the case studies analyzed for this report: the San Francisco Residential Inclusionary Affordable Housing Program (RIAHP) and the Affordable Requirements Ordinance (ARO) in Chicago (summarized in Figure 14: Summary of IH in Montreal, San Francisco, and ChicagoFigure 14). I discuss the effectiveness of these policies and programs and then consider their applicability to the context of Montreal, specifically to respond to the challenges identified above. For each issue, I analyze three possible sets of interventions, considering the advantages, drawbacks, feasibility and barriers to implementation. This analysis yields a set of recommendations found in Chapter 8.

Figure 14: Summary of IH in Montreal, San Francisco, and Chicago

				Montreal	San Francisco	Chicago
context				city population	1.7 million	2.7 million
				regional area median household income	\$67,010	\$62,246
				median home price in city (new and existing, May 2013)	\$281,625 (single family) \$227,000 (condominium)	\$200,000
current inclusionary policy				name of policy	Montreal Inclusionary Housing Strategy (MIHS)* (<i>Stratégie d'inclusion en logement</i>) *private affordable ownership component only	Residential Inclusionary Affordable Housing Program (RIAHP)
				date of adoption	2005	1992; major changes made in 2002
				voluntary or mandatory?	voluntary; negotiation-based	mandatory
				trigger(s)	applies to large residential development projects, typically 200 units and larger	applies to all conditional use and as of right residential projects
				alternative compliance options	in-lieu payment (negotiated); possibility of building off-site	in-lieu payment (as of 2012: \$179,952 for a studio - \$374,712 for a 3-bed); option to build off-site
				income target	none (applies only to affordable for-sale)	90% AMI for ownership if on-site 70% for off-site ownership 55% AMI for off-site rental
				set aside	15%	12-15% if on-site; 17-20% if off-site
implementation				complementary policies	AccèsCondo (through the Société d'habitation et de développement de Montréal, SHDM): offers buyers purchase credit towards condominium meeting requirements of affordability and, in some cases, number of bedrooms or size	Affordable Housing Zoning Bonus Program ("Downtown Density Bonus"): applies to development projects in city center; requires a contribution of either units or an in-lieu fee in exchange for an increase in allowed density
				yield	approximately 4,000 affordable ownership units since 2005	1,391 units (approx. 60% ownership) since 1992
				price range for affordable or BMR private inclusionary units	\$200,000 (single buyer)- \$360,000 (family with children purchasing large 3-bed)	\$303,000 (studio)- \$375,500 (4-bed)
						\$125,000 (studio)- \$235,000 (single family home)

7.1 To what extent can inclusionary housing policies yield family-friendly multi-bedroom private affordable ownership units?

The literature on inclusionary housing focuses very little on the issues of bedroom mix or of production of multi-bedroom units, and no multi-city survey of inclusionary housing policies offers these data. The review of literature undertaken for this paper yielded only one instance of an inclusionary housing policy for which the bedroom mix issue was explicitly discussed: San Francisco's Residential Inclusionary Affordable Housing Program (RIAHP) (Brunick, 2004). This policy includes a bedroom mix provision requiring the setting aside of below market rate units that reflect market rate units in the master project in terms of number of bedrooms. In addition, the City requires private developers to build a proportion of multi-bedroom units in certain areas in the city with high growth potential.

Due to the paucity of cases in the literature that address the issue of the size of inclusionary units, it is difficult to compare the RIAHP in terms of production of multi-bedroom inclusionary units against that of another municipality's IH policy. Yet, the analysis of the Montreal Inclusionary Housing Strategy confirms that the absence of such a policy may result in the production of a high proportion of smaller inclusionary units, since it is tempting for developers to save money while meeting policy goals, by building small units with lower construction costs (Porter, 2004; See Chapter 4). Furthermore, while social housing units are closely regulated in terms of their size and number of bedrooms, this is generally not the case for private affordable ownership units in inclusionary projects.

The lack of attention paid to the issue of the number of bedrooms in inclusionary units may be explained by the fact that there is always some degree of demand for affordable housing for every size of household. Therefore, the production of any affordable inclusionary unit benefits at least some households or individuals. However, as one staff member of the San Francisco Mayor's Office of Housing (MOH) explains in reference to the RIAHP, a provision requiring developers to build like-for-like below market rate (BMR) units "made intuitive sense considering the program was intended to mix affordable housing into market rate housing evenly." This comment reflects an important principle of inclusionary housing explored in Chapter 3: IH is not merely to be used for leveraging resources in the private market to compensate for a loss of other sources of funding; rather, inclusionary housing serves as a tool to promote balanced and mixed-income development by using the private market to generate a corresponding supply of affordable housing. In Montreal, the absence of a bedroom-mix provision can be explained largely by the fact that municipalities in Québec have the formal power to impose neither inclusion of affordable units nor requirements in regards to the size or type of privately-constructed units. Of note, social housing developments in Montreal, which are heavily subsidized and are therefore subject to strict regulations, often include large units meant for low-income families. Only in the case of units developed in partnership with the

Société d'habitation et de développement de Montréal (SHDM) is there any such prescription concerning multi-bedroom units for privately owned affordable housing.

It is important to note that some evidence suggests that the imposition of requirements on developers to build affordable inclusionary units can be counterproductive. A 2005 joint report by the Home Builders Association and the Non-Profit Housing Association of Northern California argue explicitly against like-for-like provisions in inclusionary housing because they inhibit the flexibility of such policies, which many argue is essential to the success of inclusionary housing (Home Builders Association and Non-Profit Housing Association of Northern California, 2005). Comments by one Montreal private developer concerning the impact of the MIHS suggest that additional requirements related to inclusion, for instance in regards to the size or number of bedrooms in a unit, may cause developers to transfer added costs to buyers of private market rate units—including, presumably, through the construction of smaller private market rate units (Ville de Montréal, 2007). Therefore, the imposition of requirements to build larger private affordable inclusionary units carries the risk of creating negative externalities in the private market. No data is available to confirm whether such an impact has been felt in San Francisco following the imposition of a multi-bedroom requirement.

Further study is needed to understand the potential impact of a bedroom mix requirement on developers in the context of an inclusionary project in Montreal. Nevertheless, given that the retention of families with children and such families' access to homeownership are both key objectives of City policy, it would be reasonable that the City should require that developers set aside private affordable inclusionary units that at least reflect market rate units, assuming that necessary changes were made to provincial planning legislation.

7.1.1 Implementation of measures to increase production of large inclusionary units

Analysis of the case of San Francisco's RIAHP and complementary multi-bedroom requirements in rapid growth areas points to the potential but also to the limitations of inclusionary housing as a tool for addressing housing needs. Since inclusionary housing is meant leverage private market activity, it is therefore unreasonable to expect an IH policy to provide a unit type that the private market does not already build, for instance large units in a market that favors small units. Although in the case of San Francisco there exists no official survey of new residential construction by number of bedrooms, some evidence suggests that over the past 10 to 20 years roughly half of newly constructed units have contained two or more bedrooms. That the RIAHP has yielded 53% inclusionary multi-bedroom units supports this. Due to the lack of corresponding data for Montreal, it is difficult to accurately determine the distribution of new units in terms of the number of bedrooms, although anecdotal evidence suggests that new private construction has favored smaller units in recent years.

The multi-bedroom requirement of San Francisco's Special Area Plans serves as an example of how an IH policy could promote the construction of relatively large and affordable or below market rate units through a policy that demands a wider diversity of new units.

Inconclusive data concerning the proportion of multi-bedroom units generated as a result of the AP multi-bedroom requirement prevents us from determining whether such a requirement would, in practice, result in a higher number of such units. However, it is essential to remember that Montreal does not currently have the power to impose a multi-bedroom requirement on privately constructed units, although the project to amend Quebec planning law included a provision in Article 185 to empower municipalities to impose such requirements.

No private developers in either San Francisco or Montreal were interviewed for this study, but according to a City of San Francisco staff member the multi-bedroom requirement has been met with resistance from private developers who report a loss of profits due to the slow absorption of larger units. Unlike in the case of the adoption of the inclusionary housing policy, no financial analysis was undertaken by the City to determine the impact of the multi-bedroom requirement on private developers. A City staff member noted that even if an increase in supply of large units were to result in lower sales prices, an undesirable outcome from the perspective of the private developer, lower home prices would only serve to increase the affordability of such units.

Ultimately, the successful adoption of a multi-bedroom requirement in Montreal, however ambitious, would depend largely on local political priorities, the real estate market, and pressure from developers. It can be expected that private developers will resist imposition of a multi-bedroom requirement as this would increase costs. Developers have already argued that added restrictions may lead them to transfer costs to other buyers, potentially through the shrinking of private-rate units. In the context of Montreal, whose housing market is not as strong as that of San Francisco, strategies must be explored to either compensate for developers' loss of profits, to impose corresponding restrictions on market rate units (for example higher minimum size of units), and/or to demonstrate through pro forma financial analysis other ways in which developers may recoup a potential loss in profit. More research is needed to understand the feasibility of adopting a multi-bedroom requirement in Montreal should Quebec municipalities gain the power to impose a multi-bedroom requirement on developers.

The emerging trend of boroughs putting in place their own inclusionary housing action plans, as the boroughs of Sud-Ouest and Mercier-Hochelaga-Maisonneuve have done, presents an opportunity for testing a local provision to encourage construction of multi-bedroom private or private affordable units. Given the lack of municipal power to impose such a requirement, it is likely to be more feasible to encourage multi-bedroom construction through the local negotiation process. Short of requiring that a proportion of units contain two or more bedrooms as the City of San Francisco has done in the Eastern Neighborhoods, boroughs might encourage such construction through negotiation and through the offering of supplementary funds collected through fees paid into the MIHS Contribution Fund.

It is worth dwelling briefly on comments by one urban planner in San Francisco that hint at the logic of a multi-bedroom requirement and that reveal how such a requirement differs from inclusionary housing. According to this planner, requiring larger units should not be seen as extracting a subsidy from the developer, lest they demand that the City compensate them for the loss of profit. Rather, the multi-bedroom requirement is comparable to the imposition of other planning regulations that, though they may chip away slightly at the profits of a developer, must ultimately be accepted as an extra cost of building. According to this City of San Francisco planner it is assumed that, at worst, a developer will sell a larger unit at cost but not at a loss unless the unit is designated as below market rate (BMR). Of course, the construction of larger private affordable inclusionary units would require a much deeper subsidy from the developer who may, in turn, compensate for that loss in other ways, for instance by decreasing the size of even multi-bedroom units.

A kind of multi-bedroom requirement is already in effect in Montreal as part of the AccèsCondo program. As discussed in Section 4.5.2, developers who partner with the Société d'habitation et de développement de Montréal (SHDM) for an inclusionary project must ensure that 75% of private affordable inclusionary units have two bedrooms or more. Furthermore, the SHDM works closely with private developers during the design process to ensure that private affordable inclusionary units are of a minimum size. Constraints associated with the AccèsCondo program may add to construction costs for developers, but partnership with the SHDM also guarantees developers that all units will be sold. Currently, developers of inclusionary projects are not required to work with the SHDM. However, the existence of such a system to deliver private affordable units, many of which are suitable for families, represents a major opportunity to enhance the impact of the MIHS in terms of the production of family-appropriate private inclusionary units.

7.1.2 Limitations of bedroom mix and multi-bedroom requirements

While the low rate of production of family-appropriate affordable inclusionary units has been identified as a major limitation of the MIHS, it is important to consider that an increase in the supply of such housing may not adequately address the housing squeeze found in Montreal. Experts and advocates in San Francisco suggested in fact that the production of new family-sized affordable units represents only a partial solution to a family housing squeeze such as that experienced in both San Francisco and Montreal.

In the case of San Francisco, the high demand for housing causes families to be outbid by small, wealthier households who desire more spacious units and by single people who are able to share such units. The decreasing size of households in Montreal suggests that a similar dynamic is in effect in Montreal (Ville de Montréal, 2011). It is not possible to guarantee that a large family-appropriate unit in the private sector is in fact occupied by a family with children, since no law exists in either the U.S. or in Canada that allows the control of occupancy of private housing units.

Occupancy control is justified, however, where City resources are used to generate affordable housing. Currently, some programs determine eligibility on the basis of household size either directly, as in the case of social housing, or indirectly, as in the case of the Accession program, whose affordability thresholds are applied on the basis of household composition as well as on size of unit. Therefore, requirements to encourage the construction of family-friendly units, such as the multi-bedroom requirement found in some areas of San Francisco, must be accompanied with a system for controlling occupancy and guaranteeing affordability.

One limitation of San Francisco's multi-bedroom requirements has to do with the still relatively small size of the required two- and three-bedroom units. According to occupancy norms used in San Francisco housing programs, a two-bedroom unit can accommodate a household of three, and three-bedroom units, which are far less common, can only accommodate a household of four. While multi-bedroom units are certainly in demand among these households, the housing squeeze is typically stronger among even larger families. In the case of Montreal, the Accession à la propriété program qualifies family-appropriate housing as having a minimum of three bedrooms (Habiter Montréal, 2013). Presumably, a three-bedroom requirement would provoke more resistance than a two-bedroom requirement, as this would be even more costly for developers. However, the imposition of a requirement to build three-bedroom units should nevertheless be explored.

7.1.3 Alternatives to a multi-bedroom requirement

According to one national inclusionary housing expert, an inclusionary housing policy may yield a higher number of large affordable units in two ways other than the measures discussed above. First of all, the policy could allow for the negotiation of a smaller set-aside in exchange for the construction of multi-bedroom units. However, this would result in a smaller yield of affordable units. Second of all, the City may leverage other resources, including but not limited to the fees paid in lieu of constructing units in other projects, to subsidize the construction of larger units. Although the second option would also yield a smaller number of private affordable inclusionary units, it represents an interesting option for the City of Montreal, which has recently established a system to collect fees in lieu of building private affordable inclusionary units, but has not yet determined how these funds are to be used.

Ultimately, the attraction and retention of families in the city requires a comprehensive approach that focuses not just on housing but also on the provision of amenities for families. According to a San Francisco MOH staff member, the City has found it more effective to address families' housing needs through direct rental assistance and eviction prevention, rather than through construction of a limited number of family-appropriate units. Such services, however, are targeted to lower income households who, in Montreal, would be targeted for social housing rather than private affordable inclusionary housing.

7.1.4 Feasibility analysis of intervention scenarios

7.1.4.1 Strategy A: Include a bedroom mix provision in the MIHS

Analysis of San Francisco's Residential Inclusionary Affordable Housing Program shows that a bedroom mix provision, which requires the setting aside of 'like-for-like' units, can result in the production of larger affordable inclusionary units. This provision was justified in San Francisco on the basis that the RIAHP "was intended to mix affordable housing into market rate housing evenly" and was met with little resistance when it was adopted with the City's original inclusionary housing policy in 1992.

Example: An inclusionary project of 200 units contains 120 private and 30 private affordable inclusionary units. The resulting breakdown of private and PAI units is as follows:

	Private component (non-affordable inclusionary)		Private affordable inclusionary component
studios and 1 bed	60	(50%)	15
2 bed	40	(33%)	10
3 bed	20	(17%)	5
total	120	(100%)	30

Advantages

A bedroom mix provision would ensure that developers set aside inclusionary multi-bedroom units, even if these are more expensive to build. Furthermore, the addition of a bedroom mix provision is congruent with existing inclusionary policy in Montreal and beyond. The City can argue that the bedroom mix provision is meant to close a loophole that has granted developers too high a degree of flexibility. If the MIHS is to remain relevant, it must demand more of developers.

Disadvantages

The impact of a bedroom mix provision is limited by private production. A bedroom mix provision can only produce affordable units that reflect market-rate units, so a market that favors construction of small units, such as Montreal's housing market, can only yield small inclusionary units.

In order to compensate for the added costs of building multi-bedroom units, a bedroom mix provision might have to grant developers the flexibility to build multi-bedroom units that

are smaller in terms of square footage, as is the case in San Francisco. This could result in the construction of units that, despite their extra bedrooms, are not desirable for the families that the City aims to encourage to purchase in Montreal.

Feasibility and Barriers to Implementation

The addition of a bedroom mix provision in the MIHS is, on its surface, the most straightforward change to advocate because it falls within the logic of like-for-like set-aside. However, while the City and boroughs may set informal guidelines concerning the production of affordable inclusionary units, current planning law does not empower either to impose such clear requirements. Furthermore, the adoption of bedroom-mix guidelines is likely to provoke resistance from the development industry, which has up to now enjoyed a high degree of flexibility.

More study is needed to clearly show that, in the absence of provisions concerning unit size and number of bedrooms, developers construct inferior private affordable homes. This requires closer study of the breakdown of new and existing housing units, both in the private market and for private affordable inclusionary units, in terms of their size and number of bedrooms.

It should be emphasized that to allow developers to merely set aside inferior products with a smaller price tag is not the same as inclusionary housing, which demands that developers contribute to the delivery of below market rate housing. Furthermore, although it is true that a need for affordable housing exists across many household sizes, the development of small units represents a lost opportunity to build housing for families.

Funds generated through the in-lieu fee can be applied towards the construction of larger PAI units.

7.1.4.2 Strategy B: Include a provision demanding that developers work in partnership with the SHDM to develop private affordable units

The Société d'habitation et de développement de Montréal (SHDM) is a para-municipal development agency with a special mandate to develop and support projects that serve other City policy objectives. Partnership with the SHDM in private housing development projects offers certain financial advantages to developers in exchange for the fulfillment of added criteria, including development of 75% multi-bedroom units and large unit size minimums.

Advantages

As discussed in the case of Strategy A, it is not enough to simply promote construction of multi-bedroom units, as these may still be inappropriate for families. Requiring that private affordable units be developed in partnership with the SHDM would ensure that multi-bedroom units respond to other criteria as well.

Partnership with the SHDM would also grant developers the financial benefits of guaranteeing that all units will be sold.

Disadvantages

Other constraints may preclude the successful development of family-appropriate units. For instance, certain neighborhoods or building types are not desirable for families. Moderate-income families with children may sacrifice certain characteristics for affordability, but only to a point. If demand for private affordable family-friendly housing is low, resulting in a failure to successfully market AccèsCondo units, the SHDM would have to incur a loss.

The financial viability of the AccèsCondo program is dependent on the rising price of affordable units, since the SHDM recoups ten percent of the market value increase upon resale. This is problematic because while the program successfully promotes construction of units affordable to the first buyer, not only does the program lack a mechanism to ensure durable affordability but the SHDM also has an interest in seeing prices rise. This represents a conflict of interest.

Feasibility and Barriers to Implementation

Because AccèsCondo is financially self-sufficient, its capacity to take on projects is theoretically limited only by the health of the housing market and the absorption rate of units. However, this means that AccèsCondo projects are particularly vulnerable to changes in market conditions.

Because of high soft costs incurred by the SHDM during project development, according to an SHDM staff person the minimum unit threshold for an AccèsCondo project is 100. Assuming this minimum represents the 15% guideline for inclusion of private affordable units, an AccèsCondo project of this size requires a very large master project of at least 667 units. Therefore, either partnership with the SHDM should provoke a higher percentage of inclusion of private affordable units or other resources should be mobilized to compensate for budget shortfalls.

Funds generated through the in-lieu fee can be applied towards the construction of larger private affordable inclusionary units. However, the use of other sources of funding to support construction of units that are subsequently lost to the market upon resale is problematic. A subsidy recapture mechanism should be explored.

7.1.4.3 Scenario C: Impose a multi-bedroom requirement in certain zones of high projected growth

Given that the MIHS is meant to shape housing development across Montreal through intervention in large-scale projects, it makes sense to explore the possibility of imposing a multi-bedroom requirement in the context of a Special Area Plan for areas with high growth

potential, as seen in San Francisco. The required proportion of multi-bedroom units should be higher than what is currently built in the private market.

Advantages

A multi-bedroom requirement may serve to boost the impact of a bedroom-mix provision proposed in Strategy A, resulting in a higher yield of private affordable units with two or three bedrooms.

Disadvantages

The imposition of a minimum number of bedrooms for a certain proportion of units is likely to provoke resistance from private developers. Furthermore, developers may seek to compensate for higher costs resulting from such a requirement by constructing units that are smaller in terms of square footage.

Feasibility and Barriers to Implementation

The adoption of measures requiring multi-bedroom units may be more feasible at the borough or neighborhood level, rather than at the city-wide level. In this scenario, the political and planning fragmentation of Montreal may represent an opportunity. Boroughs have already shown initiative in adopting aggressive local action plans to implement inclusionary housing. Such a requirement would likely have to be adopted in the form of an informal guideline.

Feasibility of the measure proposed in this Strategy will be greatly increased if Article 185 of the proposed amendments to Québec planning law is adopted. Currently, Québec planning law does not allow the regulation of private market production as proposed in this Strategy. The proposed new law, however, would grant municipalities this power in Article 185.

Imposition of a multi-bedroom requirement will provoke strong resistance from the development community. If a multi-bedroom requirement were to be passed, even locally, it is likely that this resistance would result in a compromise allowing developers to compensate for lost profits elsewhere, for instance by constructing smaller units.

Funds generated through the in-lieu fee can be applied towards the construction of larger private affordable inclusionary units.

7.2 What are the advantages of establishing a municipally-sponsored body to monitor long-term affordability of inclusionary units?

The following section draws from the case study of Chicago's Affordable Requirements Ordinance (ARO) to discuss the merits of putting in place a municipally-sponsored but separate entity to monitor affordability of private affordable units produced through the Montreal Inclusionary Housing Strategy (MIHS).

According to a national expert interviewed for this paper, no policy reason or legal constraint makes it necessary to put in place a separate entity to enforce a deed restriction as Chicago has done with the Chicago Community Land Trust (CCLT). However, the CCLT represents an interesting case of a City housing policy tool formed as a result of a compromise between those who have advocated for preservation of affordable housing through alternative models of homeownership and the City, which has an interest in finding ways to increase the impact of limited resources on housing affordability.

7.2.1 Leveraging non-municipal resources

The CCLT was meant to become entirely financially self-sufficient, which would eliminate the need for support from the City at a time of increasing budget constraints. Several informants made reference to the desire on the part of the City to “get more done with fewer resources” by out-sourcing management of inclusionary ownership units to a self-sustaining organization. In addition, according to its Executive Director, the CCLT’s status as a non-profit corporation allows it to collect and manage its resources with more flexibility. As a registered 501(c)3 non-profit corporation, the CCLT may receive tax-exempt private donations. A non-profit corporation may also use its funds for expenses that the City would not be permitted to pay for, for instance catering a meal for a homebuyer workshop in a private home.

In practice, however, the CCLT is currently financially supported by the City of Chicago, is housed in City offices, and is administered by City staff. The \$25.00 covenant fee charged annually to buyers of affordable units is symbolic and holds little potential to support the CCLT. Furthermore, although the CCLT’s non-profit status entitles it to raise private tax-deductible funds, according to the Executive Director, the fact that the organization receives financial support from the City has damaged its ability to raise private funds elsewhere. Large donors such as the MacArthur Foundation, which provided start-up funds for the CCLT, are not interested in replacing City-funding with their charitable dollars. Thus, the financial status of the CCLT in the long term is not clear.

The establishment of a separate monitoring body for affordable units is meant in part to allow the leveraging of alternative resources—interestingly, much like inclusionary housing (IH) more broadly. However, the monitoring of affordable units through an IH or similar program always requires some degree of investment (Chapin-Rienzo & Gomez, 2004; Jacobus, 2007; Hickey, 2013). Even if the City of Chicago successfully finds outside funding for the CCLT, Hickey (2013) and Jacobus (2007) stress that a municipal housing policy requires oversight from the municipality. The analysis of Chicago’s ARO suggests that the outsourcing of monitoring of inclusionary units will not result in savings to the municipality.

7.2.2 Long term affordability

The CCLT is the result of efforts on the part of advocates to push for alternative models of homeownership that allow for long term affordability. Proponents of IH in Chicago were

particularly concerned with the decrease of housing affordability due to rising home prices. Several informants reported that, at the time of the establishment of the ARO, there was widespread agreement concerning the need for a mechanism to preserve the affordability of inclusionary units. As one national expert familiar with Chicago summarized:

Most people thought, if we're going to do this [put in place an inclusionary housing policy], especially if we'll get affordable condos and townhomes in neighborhoods that are gentrifying or in neighborhoods that are already affluent, that are great places to live, there should be a restriction on resale.

(Telephone interview, 2013)

These comments echo one of the major concerns that motivated the Balanced Development campaign in Chicago: that an increasingly unaffordable housing market will ultimately drive out low and moderate-income households. Even though the City had in place other programs to help homebuyers, in a context of rising prices it became essential to ensure that affordable units would not be lost to the private market at resale, subsequently requiring deeper and deeper subsidies to achieve the same level of affordability. As a result of advocacy efforts that stressed the need for both preservation of housing affordability and investment retention on the part of the City, the ARO was written to ensure that inclusionary units produced through the policy remain affordable in the long term.

Significantly, affordable housing advocates and CCLT Board members interviewed for this report often did not immediately associate the CCLT with the Affordable Requirements Ordinance. Rather, they tended to view the organization as representing, more generally, a positive step towards developing a city-wide strategy to preserving affordability created through other policies such as the ARO.

The preservation of long-term affordability of units through a city-wide, municipally sponsored entity instead of through the non-profit affordable housing sector presents several advantages in terms of preserving affordability. According to several informants, it was advantageous to create a city-wide body that eliminated the need to duplicate expenses across several smaller community-based land trusts in terms of staff, development, marketing and outreach. The establishment of a city-wide body, rather than the launch of several local community-based CLTs such as the First Community Land Trust of Chicago (See Section 6.2.3 and Appendix 16), was meant to: “increase the scale and pace of CLT housing development, standardize the legal documents and resale formula, fairly distribute CLT housing throughout the city, and eliminate inefficient duplication of effort and expense” (Towey, 2009, p. 342). However, one housing advocate not directly involved in the CCLT argued that a local CLT, rather than one with a city-wide and scattered portfolio, might be more successful in working closely with homebuyers to help them build assets and eventually access fully private homeownership.

Sponsorship by the City has allowed the CCLT to effectively negotiate ways of facilitating the CCLT model of affordable housing. For instance, the affordable property tax arrangement with Cook County, an indirect subsidy that allows homeowners to pay property taxes on the below market price of their home, decreases costs to homebuyers. The City has also successfully negotiated financing from lenders, who, according to two informants in Chicago, tend to show reluctance to finance the purchase of shared equity properties such as the deed-restricted homes of the CCLT.

The establishment of a separate non-profit corporation with a Board of Directors to monitor CCLT units, including inclusionary ownership units, has also protected the CCLT politically to some degree. In spite of its reliance on financial support from the City during a time of increasing municipal budget constraints and, by admission of the CCLT's Executive Director, waning enthusiasm for affordable housing preservation, the CCLT is protected somewhat by the Board of Directors, which is made up of politically powerful advocates of affordable housing. Hence even though the City enjoys a high degree of control over the CCLT, the structure of the organization creates a counterbalance to this municipal power in the form of its Board. This, the CCLT Executive Director argues, is the "genius" of the CCLT model.

7.2.3 Partnership between the City and a broader range of housing advocates

The enforcement of a resale restriction can be done effectively by the municipality; indeed, many cities, including San Francisco, monitor inclusionary units in-house. The City of Montreal monitors units subsidized by various City programs and, with investment of personnel, would be well-placed to monitor long-term affordability city-wide. But the value of a municipally-sponsored non-profit entity lies not in the fact that it represents an optimal system for monitoring inclusionary units, but in its potential to formalize partnership between the City and other affordable housing actors.

Ultimately, a municipally-sponsored monitoring body can serve as a steward of affordable housing in the long term. There exists no precedent in Montreal for outsourcing monitoring of affordable housing to a non-profit organization, although the Société d'habitation et du développement de Montréal (SHDM) serves as an example of a municipal non-profit organization. However, a formalized structure for partnering with other affordable housing advocates holds some promise in Montreal given that the MIHS itself is the product of collaboration between a variety of stakeholders, including the City, the boroughs, private developers, and housing advocates.

A formal structure that brings together leaders from the City, the social housing sector and community groups, as well as potentially lenders and other housing advocates, could also serve to better develop the City's goals concerning the construction of private affordable inclusionary units. Currently, while many groups advocate for the construction of social and community housing and have successfully negotiated a high proportion of social housing in some large inclusionary projects, by all accounts no groups push for the private affordable

component of the MIHS. This is due largely to a perceived conflict of interest on the part of housing advocates between the push for social housing, which caters to households with the highest degree of need, and for private affordable housing, which is targeted to moderate-income households. In fact, that the MIHS includes a private affordable component was a source of strong criticism from several groups during the consultation period of the development of the MIHS.

The analyses of inclusionary housing in San Francisco and Chicago, however, show that the social housing advocacy sector in each city tends to recognize the value of pushing for affordability for middle-income households. In the case of Chicago, the interest of affordable housing advocates in creating the CCLT was related principally to the organization's potential to protect long-term housing affordability in Chicago, even if the units concerned tend to be targeted to higher-income households relative to the affordable housing sector's traditional constituency. One housing advocate in Chicago argued for such housing as follows:

You can imagine that a renter in a [subsidized social housing unit] could move up into one of those inclusionary housing units, in a nice neighborhood, in a building that was built by a private developer. People... move on, they don't stay in [social housing] forever.

While imperfect and in evolution, the CCLT is meant to serve in a broader effort to ensure that increasing home prices don't drive out lower-income households.

The establishment of the Chicago Community Land Trust represents a partnership between the City of Chicago and the affordable housing sector, which played a key role in the adoption of the Affordable Requirements Ordinance as well as in the push for long-term affordability of inclusionary units. Ultimately, the potential of a structure such as the CCLT lies in the partnership between the City and affordable housing advocates.

7.2.4 Feasibility Analysis of Intervention Scenarios

7.2.4.1 Strategy X: Impose a long-term lien on all private affordable units produced through the MIHS

In many cities, including Chicago, durable affordability of inclusionary units has been ensured through the imposition of a resale restriction that allows affordability to be transferred to future buyers for a period of 30 to 99 years. Buyers must qualify for purchase on the basis of their income in order to ensure that the unit not only remains affordable in the long term but also continues to benefit moderate-income households.

Advantages

A simple resale restriction allows the transfer of affordability to future buyers. Ensuring long-term affordability of private inclusionary units would serve one of the major objectives of

the MIHS, which is to create fine-grained social mix in large residential projects. Without a durable affordability mechanism, this social mix is likely lost once private affordable have been resold. If units are resold without restriction, a likely increase in market price will result in their purchase by higher-income households.

Disadvantages

Resale restrictions limit the amount of equity a homeowner can build. Therefore the imposition of a resale restriction would diminish the asset-building potential of a homeownership program and may result in a lower demand for such units.

Restricting sale of private affordable units to income-qualifying households may also result in slower sales.

Feasibility and Barriers to Implementation

Limited equity models of homeownership may be met with some resistance by homebuyers and by private developers because resale restrictions prevent homeowners from receiving the full benefits of ownership, potentially rendering such units less desirable.

7.2.4.2 Strategy Y: Establish a municipally sponsored CLT

An increasing number of U.S. municipalities have sponsored the establishment of a community land trust (CLT) or similar structure that, while closely tied with the City, is governed by a Board comprising representatives from the social housing sector, community groups, and the lending industry. This model, whose structure and long-term affordability mechanism should be determined based on further analysis, is valuable in that it formalizes a partnership between the City and other housing advocates.

Advantages

While social and community housing advocates currently show little support for the private affordable component of the MIHS, the establishment of a system for ensuring long-term affordability of these units may represent an area of common ground with the social and community housing sector.

Formal partnership with other housing advocates through a municipally-sponsored CLT or similar structure would help in the development, by a wider range of stakeholders, of a clear strategy for improving affordability of private affordable inclusionary units.

Furthermore, the establishment of a city-wide CLT or similar structure would represent a more efficient use of resources compared with a network of local CLTs. The City would likely also hold more influence in negotiation of financing and other aid for permanently affordable units, for instance a more manageable property tax burden.

Disadvantages

The establishment of a CLT and the monitoring of affordability would require the investment of a considerable amount of resources. Furthermore, a CLT with a city-wide and scattered portfolio may be less successful than locally based organizations in building a positive relationship with CLT homebuyers

Feasibility and Barriers to Implementation

Housing advocates already play an important role in shaping the MIHS in that they have advocated for more inclusion of social and community housing in certain areas of the City.

However, social housing advocates may persist in demanding that private affordable units be targeted to low-income households. This may not be appropriate given that private affordable ownership units are typically targeted to moderate-income households.

Limited equity models of homeownership may be met with some resistance by developers and potential homebuyers as resale restrictions prevent homeowners from receiving the full benefits of ownership. Longer absorption into the market caused by a lack of adequate demand could increase costs, potentially decreasing affordability or increasing the likelihood that developers would compensate by building smaller units.

7.2.4.3 Strategy Z: Work with the SHDM to put in place longer-term resale restrictions on private affordable units

The Société d'habitation et du développement de Montréal (SHDM), which already plays an important role in the development of private affordable inclusionary units through its AccèsCondo program, is a key partner with the City and holds potential for innovation in the private affordable component of the MIHS. Currently, while some demand-side City homeownership programs contain investment retention mechanisms, allowing the City to reinvest funds, only the SHDM acts on the supply side to develop private affordable units. This represents an opportunity to put in place restrictions that attach to the unit in order to ensure that it remains affordable at resale.

Advantages

The SHDM already directly manages long-term affordable properties through its Housing division (AccèsCondo is administered through the Development division), which eliminates the need to put in place a new organization, as proposed in Strategy Y.

Disadvantages

While the use of the SHDM to put in place a long-term affordability mechanism may not require the establishment of a new organization, resources would be necessary to not only monitor long-term affordable units but to modify the system as challenges emerge.

Feasibility and Barriers to implementation

Currently, market price increase of AccèsCondo units is beneficial to the SHDM in that it collects ten percent of that increase from sellers. This is in direct conflict with the goal of keeping units affordable by restricting resale price. Therefore, to put in place a long-term affordability mechanism for units developed in partnership with the SHDM represents a major departure from the current model.

7.3 Conclusion

In this paper I have addressed two major challenges that inhibit the long-term success of the Montreal Inclusionary Housing Strategy (MIHS). Each issue has required a detailed analysis of tools used in another city as well as a discussion of how such tools might be applied in the context of the MIHS.⁷⁸ While each of the issues analyzed in this paper address different elements of inclusionary housing in Montreal, they both require the imposition of stronger controls on the private affordable component of the MIHS, which is now only minimally regulated. Indeed, the broader challenge of the MIHS is that the private affordable component of the Strategy lacks a clear set of objectives with a monitoring system to match.

Given the current lack of legislative framework for imposing requirements on private development, efforts to strengthen the Montreal Inclusionary Housing Strategy carry the risk of attracting legal challenges. Furthermore, the private affordable component of the MIHS currently lacks strong support from housing advocates. Yet, the MIHS holds potential to generate production of a portion of new construction that is not only sold at an affordable price but that remains within reach even as market rate housing prices increase.

While Montreal has had success in negotiating the development of several large mixed-income residential projects, the future success of the policy requires closer monitoring and regulation to ensure that the Strategy is successful in ways beyond the mere number of units produced. To that end, Chapter 8 contains recommendations based on analysis found in the present paper.

⁷⁸ See Feasibility analysis in Appendix 19.

Chapter 8

Conclusions and Recommendations

Inclusionary housing (IH) policies are tools that aim to increase housing affordability by leveraging private housing market activity in order to produce affordable inclusionary units. Policies vary widely throughout North America, but tend to follow three broad principles. First, IH policies aim to increase housing affordability, not only to meet households' needs but also to ensure a diversity of housing options throughout a city. Second, inclusionary housing can be distinguished from other types of housing programs in that it is necessarily attached to private market activity. This allows municipalities to mobilize private resources at a time of increasing public funding constraints. Furthermore, attaching affordable housing to market housing allows municipalities to ensure a degree of diversity in new construction. Lastly, inclusionary housing is used in order to promote mixed-income housing, and therefore seeks to not only generate affordable units but to locate them in proximity to market rate units.

Based on case studies of the San Francisco Residential Inclusionary Affordable Housing Program (RIAHP) and the Chicago Affordable Requirements Ordinance (ARO), in this Chapter I recommend a set of interventions to address two major issues identified in the Montreal Inclusionary Housing Strategy (MIHS). Proposed interventions are meant to fit within a broader framework of inclusionary housing, that is, the leveraging of private sector residential construction to produce affordable inclusionary units. Some interventions may lie outside of traditional models of inclusionary housing but are meant to augment the effects of the MIHS. Recommendations, which are based on the analysis of inclusionary housing policies in San Francisco and Chicago, are made principally to the City of Montreal, with some suggestions for

the Société d'habitation et du développement de Montréal (SHDM), boroughs, and housing advocates.

This paper also serves as a reminder of the limitations of inclusionary housing as a tool to address the need for affordable housing. Because it is so closely tied to private market activity, inclusionary housing as such can do no more than boost the affordability of privately constructed homes. Policymakers and activists cannot demand that inclusionary housing policies do more than this. However, the 'booster' effects of inclusionary housing can—and should—be enhanced through other policy tools that govern private construction as well as through other sources of funding, which can be used to supplement the private-market subsidy provided implicitly by the private developer.

8.1 Recommendations

This paper has examined two major challenges that inhibit the long-term success of the Montreal Inclusionary Housing Strategy (MIHS), which the recommendations contained in this Chapter aim to address. Proposed actions and strategies are meant to make the MIHS successful in terms of the impact, rather than the mere volume, of production of private affordable inclusionary units, by achieving two goals:

- 1) Increase production of large private affordable inclusionary units that are suitable and desirable for families
- 2) Ensure long-term affordability of at least a portion of private affordable inclusionary units

Given that the City of Montreal has already shown itself to be responsive to emerging challenges with the MIHS, it is hoped that the recommendations contained in this paper will be considered and that they will inspire further study. This paper is submitted at a time that presents both opportunities to improve the MIHS and significant constraints. On one hand, a project to amend Quebec planning law has already been initiated in the past and, as I recommend, should be revived. Furthermore, local initiatives at the level of the borough hold promise to serve as pilot programs which are likely more politically feasible than city-wide changes.

On the other hand, the period of growth experienced in Montreal in the past few years will not continue indefinitely. The market has already slowed down enough that the SHDM reports slower sales even in affordable units. This presents a problem, as production of inclusionary units is directly related to the robustness of the private housing market. Furthermore, as many have already noted, the supply of large sites that would provoke the MIHS is finite. It is therefore advisable that the City of Montreal implement changes to render the MIHS more effective while the policy remains relevant.

While the implementation of certain actions may be difficult in the near future due to legal or political constraints, it is essential that the City of Montreal at least work towards a clearer articulation of goals related to the production of private affordable inclusionary units. Closer monitoring of size of inclusionary units and their affordability over time should also be undertaken in order to build a stronger case for addressing these two issues through changes to the policy.

The following interventions are recommended:

- **The City of Montreal and Quebec urban planners should renew efforts to amend Quebec planning law.** They should especially ensure the passage of the new Articles 182 through 185, which would empower the City of Montreal to impose a mandatory inclusionary housing provision and to impose requirements on private residential development in regards to the type and size of housing units.
- **The City should put in place a system for ensuring long-term affordability of private affordable inclusionary units.** Such a system, which should be developed based on further analysis to determine the optimal model, should broadly allow affordability of private affordable inclusionary units to be transferred at resale. This would ensure a higher degree of both retention of investment by the City and preservation of affordability for future buyers. Furthermore, such affordable units should be made available only to households that qualify on the basis of their income, composition, and status as a first time homebuyer.
- **The City should form a municipally-sponsored community land trust or similar entity that brings together the City and affordable housing advocates to oversee the long-term affordability of private affordable inclusionary units throughout the city.** Such an organization would serve the purpose of enlisting the social housing sector in efforts to improve the private affordable component of the MIHS. Housing advocates must be convinced that the development of private units that are affordable in the long term is an important part of a broad strategy to keep Montreal affordable in the long term through a continuum of housing programs. To that end, the City must make changes to the MIHS that ensure that the Strategy does not simply stimulate residential construction but yields below market rate ownership units that are of a high quality and affordable in the long term.
- **The City of Montreal should improve monitoring of private affordable inclusionary unit production.** This will be essential should the City adopt a provision that imposes more requirements of developers in regards to the size and number of bedrooms of private affordable inclusionary units. More fundamentally, however, in order to better understand

and analyze results of the private affordable component of the MIHS as well as to argue for the implementation of more stringent requirements concerning private affordable inclusionary units, it is very important that the City collect data on: the number of private affordable inclusionary units in a project, the number of bedrooms in each unit, the size of each unit, and the composition of all buyer households.

- **The City should use funds paid in lieu of building inclusionary units (held currently in the Fonds de Contribution) to subsidize the construction of two and three-bedroom private affordable inclusionary units.** Development in Montreal currently tends to favor construction of smaller units, due in part to high construction and carrying costs of multi-bedroom units. The City's high priority of expanding housing options for families justifies the application of inclusionary in-lieu fees towards the construction of affordable inclusionary units for families. Such units should be affordable in the long term in order to retain the subsidy provided through the MIHS Contribution Fund.
- **The City should support boroughs in encouraging construction of units with three or more bedrooms, both in inclusionary projects and more generally.** The imposition of such a requirement or guideline at the local level is likely to be more feasible than at the level of the city, and presents an opportunity to observe the effects of such a policy. In the absence of strict requirements, boroughs and housing advocates should encourage the construction of private affordable multi-bedroom homes in addition to the social, community, and private affordable housing units typically demanded in negotiations for large inclusionary projects. The City and Boroughs should specifically aim to increase production of multi-unit bedrooms in areas that are appropriate and desirable for families.

8.2 Evaluation of Methodology and Future Areas of Research

The present paper represents a step towards better understanding of the effectiveness inclusionary housing given a unique context. A better understanding of the local context and its influence on inclusionary housing is important in order to understand the limits and the potential of such a policy. Furthermore, the examination of several issues in the Montreal Inclusionary Housing Strategy (MIHS) has served to present a fuller picture of the context of inclusionary housing in Montreal, even though due to constraints only two issues were analyzed.

Case studies give a necessarily incomplete picture, as they are by definition anecdotal. Although I have taken care to choose cases with some relevance to Montreal in terms of the broad type of urban inclusionary housing policy, major differences in terms of political context, legal framework, and housing market prevent the direct application of lessons from one city to

another. The use of only two case studies in this paper has allowed for a certain depth of analysis, including of the ways in which each city is unique. Furthermore, the examination of two issues is interesting because it allows for a nuanced analysis of the interconnected challenges of implementing an inclusionary housing policy.

However, future research might shed more light on how to address one single challenge through the analysis of different approaches used in several cities. This would bring in both breadth of experience across many cities and depth of analysis of one issue. Further insight could be gained through the examination of a wider variety of policy tools to address one issue.

In addition, more research is needed to determine the feasibility of proposed interventions from a variety of perspectives: the City, affordable housing advocates, and private developers. Future research could draw on a variety of examples to identify several possible interventions, which would then be tested more systematically than is possible in the scope of this paper in order to determine the most appropriate response to an issue.

Ultimately, the present paper serves as a starting point for identifying strategies to address two key issues concerning the private affordable component of the Montreal Inclusionary Housing Strategy.

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