

Equitable Development Toolkit Commercial Linkage Strategies

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What Is It?

Commercial linkage strategies tie new economic development to the construction and maintenance of affordable housing or other community needs. Most linkage programs do this by requiring developers of new commercial properties to pay fees (usually assessed per square foot of development) to support affordable housing. Some programs give developers the option to actually construct the affordable units. In exchange for compliance, developers receive their building permits. Established by legislation or ordinance, linkage strategies are an important vehicle for ensuring that community benefit is derived from commercial development.

In metropolitan areas experiencing growth, commercial development (usually office or retail space) often outpaces affordable housing production. This can create a jobs-housing imbalance, meaning there are not enough places for workers to live in the vicinity of their jobs. A jobs-housing imbalance can drive up prices in the local housing market, forcing some people out. Low-income people and communities of color are often the most acutely affected. A jobs-housing imbalance also leads to long commutes and traffic congestion as workers live farther from jobs, which affects the entire region. Linkage programs seek to correct this imbalance by tying the construction and maintenance of the affordable housing stock to commercial growth.

This tool was developed in partnership with Jo Patton, of Chicago-based Business and Professional People for the Public Interest (BPI). For more information, visit [BPI's Website](#)

. A variation on Linkage Strategies

A regional alternative now under development in Chicago would collect a portion of the growth in commercial and industrial tax base from municipalities with insufficient affordable housing, rather than imposing a fee directly on developers.

Why Use It?

Create a substantial, dedicated source of revenue for affordable housing

Most linkage programs raise substantial funds, though the specific amount depends on many variables, from the design of the program to the growth of the local commercial sector. Boston's linkage program produced \$45 million between 1986 and 2000. San Francisco raised \$38 million in linkage funds between 1981 and 2000.

Linkage program revenues are not only sizeable—they are also reliable. Unlike yearly appropriations that require annual, time-consuming campaigns to maintain or increase, linkage programs create a stable source of revenue that allows for better long-term planning.

Ensure that housing production keeps pace with commercial growth

While new commercial growth brings significant benefits to a locale, it can create pressures on the housing market in a number of ways. New jobs attract new residents, driving up demand and thus housing costs. In addition, a successful commercial development can increase surrounding property values, leading to higher property taxes that both burden current residents and price out many prospective residents. A linkage program can mitigate these effects by generating affordable housing resources in proportion to economic growth.

Encourage smart growth

Traffic congestion and long commutes have become major problems in many metropolitan areas. They limit job options for residents who cannot afford to live near booming suburban job-growth areas and make recruitment and retention of workers much more difficult and expensive for employers. By providing resources for affordable housing construction specifically in job-growth areas, linkage programs have regional economic, transportation, and land use benefits.

Stimulate economic development in disinvested neighborhoods

Improving and increasing the affordable housing stock in a neighborhood can be the first step in turning a neighborhood around economically. Linkage fees can direct resources from a central business district to surrounding neighborhoods to support more equitable development.

How To Use It

A linkage fee program is established by local legislation and administered by city staff. The local agency that issues building permit applications and zoning variances typically collects the fees and ensures that developers are in compliance. Fees are usually directed into a housing trust fund or the general budget.

Once a linkage fee program is in place, it will produce funds for affordable housing and community needs without much further action, though advocates should maintain support for it and monitor the expenditures.

Build a Community of Support

Getting a linkage program passed usually requires mounting a campaign with a broad base of support. Since a linkage program requires legislation, the mayor and city council will likely be the targets of the campaign. In some cities, it is also important to target city staff, as elected officials rely on them for information and advice. In others, the city staff may not be players. Those who know the politics of a municipality should be able to predict which is the case.

A broad base of partnerships and allies is also critical for building an effective campaign. A linkage campaign should include citizens, sympathetic government officials, planning and development experts, and as many community organizations as possible that represent housing and any other needs the linkage program will address. Sympathetic business people are also an asset. (See Success Factors)

Develop a Proposal

The Values of Specifics

Organize around a specific proposal, rather than the idea of a linkage fee. This keeps opponents from getting away with extreme worst case scenarios, and also reduce the discomfort of dealing with the unknown. Hard data and thought-out procedures will make a program easier to pass.

One of the most important elements of a linkage campaign is a well-thought-out proposal. A general call for some sort of linkage fee opens the door for opponents to declare that it will result in the death of all commercial development. However, with a specific proposal in hand, advocates can make a coherent argument-with hard data-that outlines the benefits of the policy and the limited impact on developers.

Advocates should, however, be prepared to be flexible about their proposal. A sympathetic mayor may convene a commission to recommend the actual details. Compromises may be necessary in order to retain allies or garner key supporters. Nonetheless, the more research that has gone into the proposal, the better chance it will be winnable.

Consider Program Design

The basic concept of all linkage fee programs is the same: developers of new commercial structures contribute-either by fee or through construction-to the affordable housing stock or to other community needs such as job training, public transportation, or child care. Beyond this basic concept, there are significant variations, shaped by a range of political and economic issues.

Key Considerations for a Linkage Proposal

- Which type of development will pay the fee?
- how much will each type of development pay?
- What will the timeline of the fee be?
- What will the funds be used for?
- Will the fund be restricted to neighborhoods near the growth areas?
- How much square footage should be exempted from the fee?

Development Type. The first step is determining the types of real estate development to which the fee will be applied. Most linkage programs apply to some subset of "commercial" development (in zoning this usually refers to office, retail, and hotel space). Some programs also assess a fee on new industrial development, though usually at a lower rate.

The Language of Zoning

Since linkage fees are assessed when a developer applies for a permit or variance, the types of development that owe fees have to be described in terms that match the local zoning code.

In choosing real estate categories, consider the current and projected economic profile of the city. What sorts of economic development are happening, and at what rates? Are there a lot of zoning variances being requested? (Often local or regional planning departments/agencies have this information.) If office space is projected to boom, for example, but there is an over-saturation of hotel rooms, focusing the fee on new office development might make sense.

Rate. Virtually all linkage fees are charged per square foot of the new development. While some ordinances have the same fee for all categories of use (retail, office, etc.), others set separate rates. Proponents of a linkage program should relate the proposed fee per square foot to the increased affordable housing need generated by the new commercial development.

To show this relationship, proponents must first determine the number of new affordable units needed. For example, in the Chicago area, the regional planning agency projected that every 100 jobs added to an area already short on affordable housing generates a need for 15 additional affordable housing units within a reasonable commuting distance. A professional planner can help with such calculations.

Setting Numbers

To determine the increased affordable housing need first determine the number of new affordable units needed. Then determine the cost difference between developing the affordable units and developing market rate ones.

Next, proponents need to estimate the cost of financing the "gap" between the cost of constructing a new unit and the affordable sale (or rental) value based on the income of the target population (the workers in need of housing). State affordable housing programs can help with this by sharing the methods they use to determine needed subsidies. In New Jersey, for example, the Council on Affordable Housing set the per unit "gap" cost at \$25,000, based on actual program costs and the average internal subsidy required for affordable units in a mixed-income development.

Payment Timing. Another important issue is when in the construction process the developer pays the linkage fee. In some cities, including San Francisco, the fee is due when the new development receives the permit. In Boston, the payment can be spread out over a period of seven years.

Fee Review. Many linkage fee ordinances include a provision that allows or mandates a periodic review of the fees to determine whether an adjustment is needed. Given inflation and changing economic conditions, including a call for regular review of the fee schedule is important.

Use of Funds. The core concept of linkage programs is to mitigate the impact of commercial development on housing affordability. But several municipalities have also looked to linkage fees to address other needs, such as childcare and job training.

Beyond Housing

Although primarily used for housing, linkage fees can also be used for:

- Child care
- Job training
- Public transportation
- Infrastructure
- Other needs created by commercial growth

To determine whether a linkage program should go beyond housing, explore whether a new development might create other needs. Will local residents need job training to get access to the new jobs? Will the new commercial development increase traffic enough to warrant increased investment in public transportation options? How do these compare to the affordable housing needs? Consider political allies and coalition opportunities.

Proximity Requirement. Some municipalities include a proximity requirement in their linkage programs to ensure that the affordable housing built with the funds is in the area affected by the commercial development. For example, in Boston, the housing is supposed to be built within a mile and a half of the commercial development that generated the funds.

Exemptions. All linkage programs exempt a certain amount of square footage from their fees, as a way of protecting small businesses. The threshold depends on the priorities and concerns of the program. When Boston established its program, the priority was on addressing the effects of large-scale commercial developments, so it set a high threshold. Developments under 100,000 square feet do not owe a fee at all; for larger developments the fee is levied only on the square footage above 100,000. Cambridge, on the other hand, exempts developments under 30,000 square feet completely, but charges larger developments for all but 2,500 of their square footage.

Linkage Program Variables

| Variable | Options | Considerations |
|----------|---------|----------------|
|----------|---------|----------------|

| | | |
|-----------------------|---|---|
| Development type | Commercial: retail, office, hotel, etc. | Projected growth in each category of real estate development and in related job creation (ideally including wage levels). |
| | Institutional | Jobs/Affordable housing impact of any projected expansion of local university or hospital. |
| | Residential (high end) | Very expensive industrial development can create a need to house domestic workers |
| | Industrial | As above, should be based on projected growth and job creation. |
| Rate | Ranges from \$0.50 to \$13.00 per sq.ft. | Cost of meeting affordable housing demand generated by new jobs. |
| Payment timing | Immediately, or phased-in | How soon will the effect of the new commercial construction be felt? |
| Use of funds | Affordable housing jobs training child care | What are the impacts of new commercial development? in addition, consider political allies and coalition opportunities. |
| Proximity requirement | Neighborhoods closer to commercial growth | Are some neighborhoods being affected disproportionately by commercial growth? |
| Exemptions | Smaller development | balance need for revenue with ability to pay and need for commercial growth. |

Linkage Programs Around the Country

| City (yr. adopted) | Development Type | Rate (per sq.ft.) | Exemption | Revenue Generated | Unique features |
|--------------------|---|--|--------------|----------------------------|--|
| Boston (1987) | Office Retail Hotel Institutions | \$8.62 (\$7.18 to housing \$1.44 to job training) | 100,00 sq.ft | \$45 million | Extended payment period (7yrs) |
| Berkeley (1993) | Office Retail | \$5.00 (\$4.00 to housing, | 7,500 sq.ft | \$1.93 million for housing | Rate schedule is ceiling with option for |

| | | | | | |
|----------------------|---|---|--|--|--|
| | | \$1.00 to childcare) | | \$840,000 for childcare | reduction |
| | Other commercial & Industrial | \$2.50 (\$2.00 to housing, \$0.50 to childcare) | | | |
| Cambridge (1988) | Commercial Hotel Retail Institutions | \$3.28 | 2,500 sq.ft (30,000 sq. ft. threshold) | \$750,000 w/\$2.5 mil. in pipeline | Option to build affordable units of "equivalent benefit" instead |
| Sacramento (1989) | Office | \$0.99 | | \$11 million city, \$15 million county | provides exemptions to retail for financial hardship |
| | Hotel | \$0.94 | | | |
| | Research & Development | \$0.84 | | | |
| | Commercial | \$0.76 | | | |
| | Manufacturing | \$0.62 | | | |
| | Warehouse | \$0.27 | | | |
| San Diego (1990) | Office | \$1.06 | | \$33 million | |
| | Hotel | \$0.60 | | | |
| | Research & Development | \$0.75 | | | |
| | Retail | \$0.60 | | | |
| | Manufacturing | \$0.60 | | | |
| | Warehouse | \$0.60 | | | |
| San Francisco (1981) | Entertainment | \$13.95 | 25,000 sq.ft. | \$38 million | |
| | Hotel | \$11.21 | | | |
| | Office | \$14.96 | | | |
| | Research & Development | \$9.97 | | | |

| | | | | | |
|-------------------|------------|--|--|---------------------------------|-------------------|
| | Retail | \$13.95 | | | |
| Seattle (1989) | Commercial | \$20 s.f. for purchase of extra floor area ratio (FAR) or construction of affordable housing | | 166 housing units & \$5 million | Voluntary program |

Key Players

Core Organizations

Be creative

A wide range of organizations might support a linkage fee if they could see how it relate to their agendas. Linkage advocates should be versed in explaining the different benefits of linkage program (from smart growth to realiable housing funding) to build their list of allies.

Organizations that advocate for and build affordable housing will play central roles in the campaign for a linkage fee. They have expertise in both the extent of the problem and what it will take to solve it. These organizations can also mobilize residents who are directly affected by the jobs/housing imbalance.

If the linkage fee will be used to address other community needs as well, then advocacy organizations involved in those issues will also play a core role.

Other interested organizations

The mission of many community organizations will b advanced by a linkage fee. Those concerned with regional equity, smart growth, and opportunities for low-income residents will all be valuable allies. The specific organizations will vary according to local circumstances, but could include social service providers, religious organizations, community based organizations, environmental activists, labor unions or job training advocates.

Citizens

Well-informed, supportive citizens are always helpful in winning adoption of a linkage program, and they are crucial to its long-term viability. Even if the majority of city council representatives appear supportive of a linkage program, educate and mobilize the public. A ballot referendum, a petition campaign, a candidate questionnaire are all tools that can help build and demonstrate public support.

Government officials

At some point, and the earlier the better, a linkage campaign will need the assistance of supportive government officials. City council members can sponsor legislation and talk to their colleagues about the benefits of a linkage program. City staff can be influential as well, because elected officials rely on them for information and advice.

Planning and development experts

Because a specific proposal is a core piece of a linkage campaign, people with expertise in law, development, and planning should play an active *advisory* role along the way. They can help make rate calculations, word ordinances, and prepare reports on the projected results of the program.

Challenges

Economic Development Concerns

No matter how compelling the case for a linkage program may be, someone - often commercial developers, public officials, or business leaders - will raise the concern that such a fee will discourage or halt needed economic development. A good counter argument is that the fee is relatively modest compared to the developers' budgets and that linkage fees have not halted commercial development elsewhere. It is critical to have specific numbers regarding the benefits of the fee and the limited impact on the developers' bottom line. It is also worthwhile to point out that builders benefit from the public investment in infrastructure (transportation, sewage, etc.), so it is not unreasonable to expect them to mitigate negative public impacts of their activity.

Private Property

The Fifth Amendment to the Constitution states that private property may not be taken for public use without just compensation. What constitutes a "taking," however, is the subject of much debate. Some developers argue that linkage programs are "takings" that require government compensation.

Avoiding Takings Trouble

For a linkage program to avoid being considered a "taking" for which landowners should have to be compensated, it must meet these two criteria:

1. The goal of program, must be a "legitimate state interest" that is related to the reason a landowner is charged a fee (new development/permit)
2. The amount of the fee must be proportional to the effects of the new development

The answer is not simple. Linkage programs are a kind of "exaction," a requirement to transfer land or money to a municipality as a condition of approval for development. Some exactions are considered takings, and some are not, and the Supreme Court has articulated a two-step test to make the distinction. If a government wants to make an exaction without compensating a private landowner, it must pass both steps.

First, the government must show that a connection ("nexus") exists between what the landowner wants to do and a legitimate state interest. For example, in *Nollan v. California Coastal Commission*, the California Coastal Commission wanted to require a property owner to give public access to the property's beachfront in order to get permission to rebuild a house on the property. But the Court ruled that the building of the house was not directly connected to the public interest of beachfront access, and held that the Coastal Commission could not make that requirement without compensation.

Second, what the state requires of the private landowner must itself be related "in nature and extent" to the impact of the proposed development. So a linkage program must be designed to handle the housing needs created by the new development, not a pre-existing housing crisis as well, according to the decision in the case of - *Dolan v. City of Tigard*.

In developing a linkage program, advocates should be aware of the Nollan/Dolan cases and be prepared to demonstrate that the linkage fee is connected to the impacts of proposed development and that it is proportional to the nature and extent of the impacts.

A Few Tough States

Some states interpret these conditions even more narrowly. For example, according to the Illinois Supreme Court, exactions are permissible only if they:

- (1) meet needs "specifically and uniquely attributable" to the developers activity; and
- (2) are directly proportional to these needs.

In one case, the Court found that a requirements to dedicate a certain amount of land for a new road was disproportionate given that the need for for a wider road stemmed from design deficiencies of current road, not new traffic generated by development.

Designing a linkage program capable of sustaining legal scrutiny in Illinois and other states with similar high requirements would be difficult. It would require demonstrating in detail that the commercial development bearing the fee would definitely introduce new employees into the municipality that the current housing market could not adequately support. In particular, the ordinance would need to attribute the lack of affordable housing to influx of new employees, not a general overburdening of the housing market.

Taxing Authority

Another potential legal issue is whether local government has the power to levy taxes. Linkage fee programs are established by local municipal governments. Depending on state law regarding local governments' power to tax, state-enabling legislation may be necessary before an approved linkage program can go into effect.

Success Factors

Ingredients for Success

Develop an Informed Analysis

A crucial element in developing and winning a successful linkage campaign is background research. In addition to the research necessary to develop a good proposal (see [How To Use It](#) section), be prepared to argue for the need for and fairness of a linkage program in general. The following information can be very helpful:

- ***What state programs benefit commercial development, and how much has been spent on them over the past several years?*** Specific examples of programs can help counter arguments that developers receive nothing from the government and therefore owe nothing in return. The state agency that administers economic development programs can provide this information.
- ***How do employers benefit from nearby affordable housing?*** Check to see if there have been any local studies of this issue. If not, conduct a quick survey of a few employers who are struggling to hire and retain entry level workers because affordable housing is scarce.
- ***How do municipalities benefit from affordable housing?*** Collect studies that document the broad social benefits of affordable housing, from reduced homelessness to increased school performance. See for, example, the [Kids Mobility Project Report](#), from the Family Housing Fund.

Use Technical Assistance

An effective linkage program is not extremely technical, but assistance from a lawyer and a planner with economic development expertise is nonetheless worthwhile.

Lawyers can help:

- Develop a program that minimizes the potential for a court challenge
- Determine basic steps required for enacting a program and write enabling legislation in the proper language
- Navigate local laws surrounding exactions (see [Challenges](#) section).

Planners can help:

- Develop a program that minimizes the potential for negative impact on the city's economy
- Review and analyze data about projected economic development, job growth, and affordable housing demand and help identify the appropriate rate for the fee

Reach Out to Possible Opponents

Don't Write Off the Business Community

While business people are not likely to be a linkage campaign's core supporters, some employers are starting to recognize the importance of affordable housing to the long term can give a linkage campaign a big boost, and diffiuse knee-jerk opposition from their colleagues.

It is important to reach out to unions early in the process and listen to their concerns regarding a linkage fee. Chances are their worries can be addressed as the linkage fee program proposal is developed, but if opponents get to them first with tales of the death of commercial development and loss of jobs, it will be hard to repair the damage.

Developers, especially those with ambitious commercial development plans, are unlikely to support a linkage program in large numbers. However, there will be some in the business community who recognize the importance of affordable housing to the long-term economic health of the community. And residential developers may gain from an effective linkage program. It's worth the effort to recruit business leaders to endorse a linkage campaign.

Financing

Cost to the Jurisdiction

Linkage tools are an important vehicle for generating affordable housing dollars in a local jurisdiction. These programs result in few "hard costs" for jurisdictions beyond the costs of administering the program, which are relatively low. The majority of programs channel fees into existing affordable housing programs.

Cost to Developer

The majority of programs require a one-time fee of developers. Developers may argue that linkage programs create an unfair cost burden and will halt economic growth. However, it is important to remember that developers benefit in numerous ways from public infrastructure and services, and therefore, should contribute to the community.

Policy

There are many policies and programs at the state and local levels that can encourage linkage programs and provide political leverage for them.

Create state level policy that promotes local linkage programs

While state governments do not establish linkage fee programs, they can create a policy environment that encourages local jurisdictions to do so.

- *Smart growth planning.* Efforts to address sprawling development increasingly recognize the negative impacts of commercial development in areas with inadequate affordable housing. State programs to help municipalities develop balanced growth should promote and encourage linkage fees as an effective tool to address the jobs/housing mismatch.
- *Public subsidy accountability.* The movement to challenge decades of tax giveaways to attract businesses is growing. State policies to increase accountability from businesses who benefit from the public sector can legitimize the concept of linkage fees and provide supporting data to linkage campaigns.

Encourage the development of regional linkage programs

Jobs-housing imbalances do not occur only within a municipality. In fact, they are increasingly regional problems. So when some locales within a region have linkage programs, and others do not, it creates an uneven playing field in both the economic and affordable housing arenas.

A regional commercial linkage program would help level that field by creating an equivalent climate for business in each locale and a regional commitment to housing affordability. Without cross-jurisdiction collaboration, achieving region-wide balance between commercial growth and housing production is extremely challenging.

The Chicago region is developing a regional linkage program where fees are paid by municipalities rather than developers, calculated from increasing commercial tax bases. (See Case Studies for details.) Other innovations on a regional scale should be encouraged.

Innovation in Linkage Programs: Chicago's Regional Jobs/Housing Fund

Chicago's Regional Jobs/Housing Fund is similar to traditional linkage programs in that it links economic growth to the creation of affordable housing. Rather than requiring a fee from developers, however, the fund would require municipalities that permit and benefit from the new development to pay the linkage fee. Thus, it spreads the fiscal responsibility to taxing bodies rather than focusing exclusively on commercial developers. It also avoids potential legal challenges faced by traditional linkage fee programs in states that require a narrowly defined link between fees and impact. In addition, the Fund addresses the jobs/housing mismatch in economically segregated regions because of its regional scope. While still under development, this promises to be an innovative model. Details about the Fund can be found in the [Tool in Action](#) section

Ensure that local jurisdictions target resources to affordable housing

Mechanisms to ensure that linkage fee revenue is dedicated to affordable housing production are critical to a program's success. If linkage fee revenue goes into a municipality's general operating budget, the funds are vulnerable to budget crises, and it is more difficult to ensure that resources are spent on affordable housing.

- *Housing Trust Funds.* Housing trust funds are public funds established by legislation, ordinance, or resolution to receive specific revenues, which can only be spent on housing. They generally have specific income eligibility requirements for the housing they build.
- *Inclusionary Housing.* Inclusionary zoning requires or encourages that a percentage of housing units in new residential developments be made available for low- and moderate- income households. Inclusionary housing programs are primarily funded through reducing costs to developers, as through density bonuses, but they sometimes require additional subsidies. Linkage programs can provide those funds.

Case Studies

Boston Linkage Program Boston, Massachusetts

The campaign for a linkage fee in Boston was launched in 1983 with a non-binding ballot resolution promoted by Massachusetts Fair Share, a statewide grassroots organization, and several Boston-based tenants groups. A "neighborhood/community vs. downtown big business interests" tension had been developing as community leaders increasingly felt that Mayor Kevin White had turned his back on Boston's neighborhoods. White, a popular four-term mayor, was stepping down from his position, and mayoral candidates were jockeying for position in a crowded field.

Creating Pressure

Community based organizations and tenants groups in Boston used a mayoral race and a referendum to spur a departing mayor into action

Community based organizations used the referendum and the mayoral race to raise awareness about the growing inequity between the city's downtown area and its neighborhoods. This aggressive campaign also produced significant momentum for a linkage fee program. Over 70 percent of voters supported the concept. The two mayoral candidates who had championed neighborhood issues emerged as the top vote-getters in the September primary. The business-backed candidate, favored to win at least a primary victory, was left in third place.

Mayor White Makes a Move

With the political handwriting on the wall, White moved to establish a linkage fee before his departure. He created a commission that included representatives of business, developers, and community based organizations. The commission recommended a \$5.00 per square foot linkage fee for all new commercial development. In December 1983, White successfully moved a linkage fee ordinance through Boston City Council.

Legal Challenge

Between 1986 and 2000 the Boston linkage program has generated more than \$45 million that has been used for the construction of over 5,000 housing units

However, as Raymond Flynn took office in 1984, the status of the linkage fee was unclear. Several developers threatened to sue the city, arguing that the fee constituted a new tax, which Massachusetts municipalities are not allowed to create. The Flynn administration decided to collect the linkage fee but hold it in escrow until the legal question could be addressed. The City administration, along with community based organizations, began working for passage of state legislation that would enable the City to implement the linkage fee.

In 1986, the Massachusetts legislature passed the legislation and the Boston City Council passed a revised ordinance. The new ordinance added a \$1.00 per square foot fee for job training and shortened the pay-in

period for developments in the downtown area from 12 to seven years. (Neighborhood developments remained at 12.) The ordinance applies to new commercial developments over 100,000 square feet that require zoning relief. (Almost all of them do.) The funds go to the Neighborhood Housing Trust and the Neighborhood Jobs Trust.

Moving Forward

In September 2001, Boston Mayor Thomas Menino signaled his interest in increasing the linkage fee and convened a commission to review the linkage program. The proposal to raise the fee to \$7.18 per square foot for affordable housing and \$1.44 for jobs passed City Council and after an extended political tussle provoked by concerns about the allocation of the linkage fund revenues, the state legislature approved the linkage fee increase in late 2001 and shortened the payment schedule for neighborhood developments to seven years.

Chicago Regional Jobs/Housing Fund Concept Chicago, Illinois

The Regional Jobs/Housing Fund is a regional alternative to traditional linkage programs, currently under development in the Chicago area. The concept is similar to traditional linkage programs: it links economic growth to a responsibility for the creation of affordable housing. The critical difference is that the Regional Jobs/Housing Fund would not collect fees from the developers, but from the municipalities that permit and benefit from the new development. This avoids legal challenges in states that require a direct link between fees to private landowners and impact.

Because it can be regional in scope, the Regional Jobs/Housing Fund would be able to address the jobs/housing mismatch in economically segregated regions. In fact, the approach will benefit even those municipalities that don't pay into it directly, because it will reduce the concentration of lower income households in areas of the region that have not enjoyed the fruits of rapidly expanding employment.

Gathering the Funds

State legislation would establish a Regional Jobs/Housing Commission with powers to:

- determine "unbalanced" municipalities within the region, based on the ratio of jobs to affordable housing units;
- divert a portion of the increasing tax base from those unbalanced municipalities to the Regional Jobs/Housing Fund;
- oversee the use of these funds for affordable housing (and possibly economic development); and
- hear builder's appeals and override local regulatory actions if they unnecessarily limit the development of affordable housing.

"Unbalanced" municipalities would be defined as those municipalities with a ratio of jobs to affordable housing greater than the regional average. Since there are a number of towns in the Chicago region that have a significant number of both affordable housing units and jobs, municipalities with 20 percent or more of their housing stock defined as affordable would be exempted, even if their jobs/affordable housing ratio is greater than the regional average. Once a municipality is determined "unbalanced," it would be taxed on a portion of the growth in its commercial and industrial tax base.

Townville and the Regional Jobs/Housing Fund

Townville is a hypothetical municipal in the Chicago area. It has 8,862 jobs and 685 units of affordable housing (defined as housing that requires no more than 30 percent of household income for households at or below 80 percent of the Area Median Income). Townville's job/housing ratio is 12.94, well above the actual ratio for the Chicago area, which is 4.16. Therefore, Townville is "unbalanced" and must contribute to the Regional Jobs/Housing Fund

Last year, Townville's commercial and industrial Equalized Assessed Valuation grew \$10 million, from \$80 million to \$90 million. Under the current proposal, 50 percent of that growth would be taxed for the regional Jobs/Housing Fund. If that \$5 million pool is taxed at Townville's aggregate tax rate of 7.256%, then Townville would contribute \$362,800 to the Regional Jobs/Housing Fund for that year.

Using the Funds

There are two options on the table for how the Fund would disburse the money. One option is for it to support only affordable housing programs-including acquiring land, subsidizing private developments that provide affordable housing, financing bonds, and supporting local government housing initiatives-within a reasonable commuting distance of the job center in question. This option would always retain local revenues in the area from which they were derived.

In another variation the Fund would support either housing as in the first option or economic development projects in communities with jobs/housing ratios that are unbalanced in the opposite direction: an abundance of affordable housing but few jobs.

[Business and Professional People for the Public Interest](#) is working with Leadership Council for Metropolitan Open Communities and other organizations in the Chicago region to launch a public debate on the Regional Jobs/Housing Fund and its potential for creating affordable housing in exclusionary suburban communities.

City and County of Sacramento's Linkage Programs Sacramento, California

In the 1970s and '80s, the Sacramento region experienced a tremendous increase in population, driven by the rapid growth of high-tech industries, and this resulted in an acute shortage of affordable housing. In 1988, to address this problem, the Sacramento Housing and Redevelopment Authority (a joint powers authority governed by the county and city of Sacramento) spurred the formation of the Sacramento City/County Housing Finance Task Force, which included realtors, builders, housing advocates, religious leaders, and representatives from the Chamber of Commerce and League of Women Voters.

The real estate consulting firm Keyser Marston Associates gave the Task Force a study from the previous year, which quantified the relationship between types of commercial development, low-wage jobs, low-income housing needs, and the subsidy cost of providing new affordable housing. Informed by this study, the Task Force concluded that non-residential development was a "major factor in attracting new employees to the region" and "creates a need for additional housing in the city." It also recognized that addressing the affordable housing crisis required action by both the city and the county. Thus the Task Force recommended creating a city and county housing trust fund to be funded by a linkage fee on new commercial development.

Winning the Ordinance

The effort to win adoption of the Housing Trust Fund Ordinance brought together the Rural California Housing Corporation, Legal Services of Northern California, diverse homeless and housing advocates, and the Sacramento Housing and Redevelopment Agency. In fact, according to several housing advocates, the Redevelopment Authority was both catalyst and central partner in promoting the Housing Trust Fund Ordinance. (The organizing for the trust fund/linkage fee also gave birth to the coalition that later became the Sacramento Housing Alliance, an independent nonprofit advocacy group that advocates for affordable housing and the rights of the homeless.)

To reduce opposition and potential impact on commercial development, the proposed fees were set well below what advocates believed was justified by the consultants' analysis. According to one observer, however, support for the linkage fee only really jelled when the realtors decided that a linkage fee was preferable to the real estate transfer fee also being considered by the Task Force.

The Housing Trust Fund Ordinance was passed by the Sacramento City Council in Spring 1989, but soon after was challenged by the Commercial Builders of Northern California. The builders claimed that their constitutional rights were being violated and that a connection (or "nexus") did not exist between the creation of new commercial development and the need for affordable housing.

Federal Judge Edward J. Garcia rejected their argument and his ruling was upheld by the U.S. 9th Circuit Court of Appeals. Writing the majority opinion, Appeals Court Judge Mary Schroeder said that the ordinance "was enacted after a careful study revealed the amount of low-income housing that would be necessary as a direct result of the influx of workers that would be associated with the new non-residential development." Clearly, the Keyser Martson Associates study was critical to the legal defense of the ordinance.

The County of Sacramento established a linkage fee program in 1990 that is similar to the city's.

How it Works

According to the city, the Housing Trust Fund Ordinance serves two purposes: 1) to assure that non-residential development helps address the low-income housing needs associated with job growth and 2) to stimulate housing developments within designated infill areas, reducing commute distances and improving air quality. The Ordinance establishes a housing linkage fee per square foot for non-residential construction and (unlike many linkage programs) also applies to additions and interior remodels that result in a shift from one type of commercial development to another. Current per square foot fees are: Warehouse - \$.27; Warehouse/Office (warehouse buildings with less than 25 percent space used for office) - \$.36; Manufacturing - \$.62; Commercial - \$.79; Research & Development - \$.84; Hotel - \$.94; and Office - \$.99.

A separate fund and rate schedule, with fees ranging from \$.44 to \$1.08 per square foot, were established for the North Natomas section of the city because it was undeveloped at the time. The two funds have since been merged and North Natomas will be shifting to the fee schedule of the rest of the city. Sacramento's linkage programs also provide an alternative to full fee payment. Termed the "Build Option," it allows a commercial developer to construct housing within designated infill areas and then pay only a portion of the full fee amount.

Results

The linkage fee has some weaknesses too. Revenue fluctuates substantially with the fluctuations of the commercial development market. And the Trust Fund can only fund new construction, not rehabilitation of existing units.

Nonetheless, the linkage fee programs are doing what they set out to do. These local, dedicated sources have directly and indirectly (through leveraging) generated significant resources for the development of affordable housing in the Sacramento region.

Resources

Organizations

Business and Professional People for the Public Interest (BPI)

Public interest law and policy center working on a range of affordable housing issues and developing the Regional Jobs/Housing Fund concept.

25 E. Washington, Suite 1515

Chicago, IL 60602

312-641-5570

www.bpichicago.org

Boston Redevelopment Authority (BRA)

Administers Boston's linkage fee program and produced *Survey of Linkage Programs in Other U.S. Cities*, May 2001.

One City Hall Square

Boston, MA 02201

617-722-4300

www.cityofboston.com/bra/

Citizens' Housing and Planning Association (CHAPA)

Non-profit umbrella organization for affordable housing and community development activities throughout Massachusetts.

18 Tremont St., Suite 401

Boston, MA 02108

617-742-0820

www.chapa.org

Massachusetts Affordable Housing Alliance (MAHA)

Statewide nonprofit coalition that works to increase public and private investment in affordable housing.

1803 Dorchester Ave.

Dorchester, MA 02124

www.mahahome.org