

RHODE ISLAND

FAIR SHARE AND REMEDY PROGRAMS

Several states, including Rhode Island, have passed “fair share” housing laws that mandate that every jurisdiction in a state or locality contributes their “fair share” toward meeting local affordable housing needs.

- ✓ State-level fair-share and remedy programs
- ✓ State mandates and guidance for local planning

An evolving fair share housing law

In 1991 Rhode Island passed its first fair share housing law, titled the Low and Moderate Income Housing Act (LMIHA). The law applies to jurisdictions where less than 10 percent of the housing stock is affordable. Developers can seek comprehensive permits from the State Housing Appeals Board that bypass local zoning regulations and fees in exchange for including a percentage of affordable units (initially set at 20 percent) in new developments.¹⁴⁴

In 2002, LMIHA was expanded to allow for-profit developers to use comprehensive permits for ownership as well as rental housing developments. This change, combined with a housing boom in Rhode Island, resulted in an unanticipated influx of development proposals that overwhelmed local capacity to review them. Many municipalities complained that the law was offering developers a way to bypass local zoning controls and expressed concern about the repercussions of rapid development. In response, the state passed the Comprehensive Housing Production and Rehabilitation Act of 2004, which issued several changes to the structure of LMIHA to strengthen the state’s commitment to its affordable housing goals while focusing on smart and controlled growth.

The LMIHA revisions required 29 impact jurisdictions, communities that had not met the 10 percent fair share housing affordability goal, to submit affordable housing plans specifying how they would meet the 10 percent goal. The communities are required to provide annual updates on their progress. In addition, the state developed a five-year strategic housing plan for meeting the state’s 10 percent affordability goal by 2010.

In exchange for local planning, the revisions granted localities restrictions on the comprehensive permit process. Jurisdictions with approved affordable housing plans are allowed to limit comprehensive permits to for-profit developers to one percent of the permits issued annually. In addition, the share of affordable units required to qualify for a comprehensive permit increased from 20 percent to 25 percent.

As of 2006, eight percent of RI's housing stock was considered affordable, but that number varied geographically with 10.3 percent of housing affordable in urban communities and only 4.9 percent in suburban and rural areas.¹⁴⁵ The new law aims to eventually equalize the distribution of affordable housing across the state.

Results

In the 29 communities with affordable housing plans, eight communities have completed 123 low- and moderate-income homes with 1,498 more homes pending throughout the state. These homes meet 32 percent of the state's goal of 5,000 affordable units by 2010.¹⁴⁶

Many jurisdictions are pursuing local housing ordinances that will help them achieve their affordability goal. Zoning changes are the major strategy local governments proposed in their affordable housing plans, including density bonuses and inclusionary zoning, which has been proposed in 26 of 29 communities.¹⁴⁷ New zoning laws have also helped communities achieve other goals such as preserving open space and natural resources, creating workforce housing in proximity to jobs or transportation, and creating more socio-economically diverse communities – all goals outlined in RI's five-year strategic housing plan.

Amy Rainone, who works in the Policy Division of Rhode Island Housing, cites the changed nature of interactions between developers and towns as the most important

"We really saw a lot of activity that was collaborative." outcome of the LMIHA revisions. The law has facilitated increased collaboration and fostered more affordable housing production.

-Amy Rainone Rainone recalls that before the 2004 changes, almost all comprehensive permits were adversarial. Since then, "We really saw a lot of activity that was collaborative. Rather than making a

developer run through all the hoops, we are working with them to make comprehensive permits a tool to achieve what they wanted to achieve.” Since 2004, there has been a significant increase in the number of developers using the comprehensive permit process. The 29 impact communities have applied “friendly” comprehensive permits to 35 of 79 pending development projects.¹⁴⁸

Lessons learned

Initial progress was slow in the first reporting year after affordable housing plans were submitted. While the RI Housing Resources Commission attributes this to basic land and construction costs and local regulatory and political barriers, other factors may also have been at work. Chris Hannifan of the Housing Network of Rhode Island expressed concern that progress might be slow because the law lacks a formal enforcement mechanism. While the Housing Resources Commission is tasked with reviewing annual progress reports for each impact community, there is no established penalty or reward for municipalities building affordable housing.

In looking back at the development of the updated fair share housing law, Rainone advises that the formation of a task force was critical to gain all perspectives around the table in a collaborative process. The Low and Moderate Income Task Force was assembled in 2004 to study problems with the old law and make recommendations to remedy it.

Rainone also expressed the importance of including allowances for local control when implementing a state mandate. “Requiring an affordable housing plan gave municipalities a feeling of control over their community and what it would look like while getting them to think about and do something about increasing the supply of affordable housing. Before that requirement municipalities felt like they had lost control and that developers building affordable units could do whatever they wanted.”

Contact Information:

Amy Rainone
Policy Division of Rhode Island Housing
44 Washington Street
Providence, RI 02903
401-457-1256
arainone@rihousing.com

This document is a portion of NAHB's report
Research on State and Local Means of Increasing Affordable Housing.

[Click here to view the full report.](#)

Research on State and Local Means of Increasing Affordable Housing



January, 2008

Prepared for the
National Association of Home Builders
1201 15th Street NW
Washington, DC 20005

Prepared by
Kimberly Burnett
Jill Khadduri
Justin Lindenmayer
Abt Associates Inc.
55 Wheeler Street
Cambridge, MA 02138



Abt