

NIMBYism: Overcoming Community Opposition to Affordable Housing

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The Not In My Backyard Syndrome (NIMBYism), in the context of affordable housing, connotes objections raised against the siting of affordable housing that are made for reasons such as fear and prejudice. This is in contrast, for example, to objections over the real threat of an incompatible neighboring use, such as a hazardous waste facility near a residential area.

NIMBYism presents a particularly pernicious obstacle to the construction of affordable housing. Local elected officials are regularly barraged by the outcry of constituents' concerns over siting and permitting affordable housing. Consequences of NIMBYism include lengthy, hostile and unpleasant public proceedings, frustration of consolidated plan implementation, increased costs of development, property rights disputes, and inability to meet local housing needs. Fortunately, there are tools advocates can use to avoid or overcome these objections, usually to the eventual satisfaction of all parties.

Issue Summary

Zoning and land use decisions in general (conditional use permits, comprehensive planning, etc.) are the domain of local government. Whether land is zoned for residential use exclusively for single-family homes or whether land can be used for multifamily homes, and whether transitional housing facilities or group homes are considered commercial uses or whether they are determined to be residential uses - these are all examples of decisions made at the local level.

Local zoning and land use decisions have historically resulted in racially and economically segregated communities. Today, land use decisions continue to be made in political environments that are too often fueled by NIMBYism and NIMTOOism (Not In My Term Of Office) syndrome. NIMBY is the term used for residents determined to maintain homogeneous neighborhoods and increase property values, and who will vehemently oppose the development of affordable housing. NIMTOO is the term used for local elected officials who may or may not agree with NIMBY constituents, but who are not likely to vote in favor of the affordable housing development if it will jeopardize their prospects for re-election.

The best defense to NIMBYism is a good offense, and a good offense includes the following best practices.

Know your legal rights. When discrimination against an affordable housing development is really discrimination against a race, ethnicity, or persons with disabilities, it violates the federal Fair Housing Act. Litigation is often not a meaningful remedy because housing funding cycles are on a tight timeframe and court actions can take years to resolve. But knowing your legal rights and making local government lawyers and elected officials aware of what you know about your rights is often all you need to benefit from the protections of the fair housing act. In those cases where discrimination is clear and local elected officials act in disregard of that fact, you may consider referring the incident to the U.S. Department of Justice (DOJ). If DOJ takes the case, it is a little like standing up to a schoolyard bully - it could make your future dealings with your local government much easier.

A nonprofit developer may be loathe to challenge a local government over land use issues because local government provides funds to the nonprofit. Establishing a good relationship with a local legal services office or other local advocate for the public interest who can make these arguments on behalf of the future tenants or residents who are directly impacted by the land use decision is an effective way around the need for the affordable housing developer to cry foul when local government is succumbing to neighborhood opposition.

Educate elected officials. Once a NIMBY battle ensues, it is often too late to educate. Local elected officials need to understand the importance of affordable housing in general. Advocates should have an education campaign about

affordable housing and its importance to the health of the entire community without regard to a particular development. Getting good media coverage is also helpful. Whenever possible, education should include bringing elected officials to see completed developments and sharing the credit with them at ribbon cuttings and in news stories.

In regard to a pending development, whether you can meet with your elected officials depends upon the ex parte rules in your jurisdiction. But if you discover that the community opposition is meeting with elected officials about your development, you certainly should do the same.

Garner allies for affordable housing from a broad range of interests. Too often, the only proponents of the affordable housing development are the developers themselves. Whenever possible, have members of the business community, clergy, and like minded social service agencies stand up for your development. The potential beneficiaries of the development (future residents) can also be effective advocates. If at all possible, recruit a former member of the opposition to speak on behalf of your development.

The media can also be an important ally throughout the process of development approval. Whenever you foresee a potential NIMBY problem, it is best to contact the media first so that they understand your development plans, the public purpose, and the population to be served. In this way, the neighborhood opposition will have to justify to the media why it makes sense to stop a development that the media already consider an asset for the community. Again, the best defense is a good offense.

Address all legitimate neighborhood and community opposition. Key to overcoming community opposition is to address all legitimate concerns expressed by the opposition. Those concerns may, for example, be traffic or project design - issues that may lead you to make some adjustments to your proposed development. Of course, project redesign requests that are based on the “types of people who will be living in the development” would not be rationale. But, for instance, a single family residential neighborhood may want a buffer between the houses and any multifamily structure, even if it were a luxury development.

Concern over property values is often the root of neighborhood opposition. Contrary to what many opponents have argued, numerous studies have concluded that affordable homes do not lower surrounding home values. Included at the end of this article is a bibliography of studies that address the falsity of the assertion that affordable housing decreases the property value of neighboring properties.

If you address all legitimate concerns and the opposition persists, you are now in the enviable position of being able to state with certainty that the opposition is illegitimate- it is therefore opposition that would be inappropriate, arbitrary, capricious, or unlawful for the local government to consider in making its land use decision. In other words, you win!

Expand legal protections for affordable housing. The four previous best practices will be of use in situations in which immediate action is needed. In the longer term, advocates can fight for state or local laws that make it harder for NIMBYism to prevail. For example, in 2000, the Florida Fair Housing Act (the state’s substantial equivalent to the federal Fair Housing Act) was amended to include affordable housing as a protected class. In 2009, North Carolina adopted a similar state law to add affordable housing as a protected class in its fair housing law.

Laws, whether federal, state, or local, that are helpful to your cause are only helpful if decision-makers and their staff are aware of those laws. The expansion of the state fair housing act to include affordable housing in Florida has been successful in keeping local elected officials from succumbing to NIMBY opposition. But the success of the law is only because housing advocates have been conscientious about ensuring that local government lawyers knew about the statutory change. It is now commonplace in Florida for a city or county attorney to inform the elected body during a heated public hearing that they would run afoul of the state’s fair housing law if they deny the affordable housing developer’s application. Legal protections for affordable housing provide political cover to elected officials who are sometimes facing an electorate threatening to unseat those officials who vote in favor of the affordable development.

For More Information

The following is a bibliography of property value studies based on statistical and empirical analysis and covering hundreds of case studies from throughout the nation. Virtually without exception, affordable housing developments have been found to have no effect on neighboring market rate property values, and in some instances have increased the value of neighboring property. Local government elected officials and their staff can use these studies as evidence to counteract homeowner fears about loss of property value.

Center for Housing Policy, Insights from Housing Policy Research, (2009, February). Don't Put It Here! Do Subsidized Housing Developments Cause Near by Property Values to Decline? Washington D.C. <http://www.nhc.org/pdf/Dontputitherefinalreorder.pdf>

Ed Lazarre and Robert Pohlman. Affordable Housing in the District Depends on a Stable Housing Production Trust Fund. D.C Fiscal Policy Institute, Washington D.C. and Coalition for Non Profit Housing, Washington D.C. (2008, October) http://www.cnhed.org/download/123321_U127242__741113/Stable%20HPTF%20Report.pdf

Furman Center for Real Estate and Urban Policy, (2008, November). The Impact of Supportive Housing on Surrounding Neighborhoods: Evidence from New York City. School of Law, Wagner School of Public Service. http://www.furmancenter.org/files/FurmanCenterPolicyBriefonSupportiveHousing_LowRes.pdf

Galster, George C; and Tatian, Peter A., Why NOT in My Backyard? Neighborhood Impacts of Deconcentration Assisted Housing, Center for Urban Policy Research, 2003. http://policy.rutgers.edu/cupr/pressPHP/specification_details.php?id=251

HUD User Regulatory Bearings Clearinghouse, (2006, September). Solutions that Support Affordable Housing Court Rulings on Local Regulatory Power, Washington D.C. <http://www.huduser.org/rbc/newsletter/vol5iss5more.html>

Ingrid Gould Ellen, Spillovers and Subsidized Housing: The Impact of Subsidized Rental Housing on Neighborhoods. Harvard Joint Center for Housing Studies. Cambridge, Massachusetts, (2007, March). http://www.jchs.harvard.edu/publications/rental/revisiting_rental_symposium/papers/rr07-3_ellen.pdf

Ingrid Gould Ellen, Michael H. Schill, Amy Ellen Schwartz, and Loan Voicu. Does Federally Subsidized Rental Housing Depress Neighborhood Property Values?, NYU, Law and Economics Research Paper No. 05-04 (2005) http://papers.ssrn.com/sol3/papers.cfm?abstract_id=721632

Jesse Mintz-Roth, (2008, May). Long-Term Affordable Housing Strategies in Hot Housing Markets. Harvard Joint Center for Housing Studies and NeighborWorks® America. http://www.jchs.harvard.edu/publications/homeownership/w08-3_mintz-roth.pdf

Non Profit Housing Association of Northern California, (2006). Affordable by Choice: Trends in California's Inclusionary Housing Programs, San Francisco, California. http://www.nonprofithousing.org/pdf_pubs/SampleIHReport.pdf

The Planning Report, the Insider's Guide to Managed Growth, (2008, July). L.A.'s New Generation Fund: \$100 Million for Affordable Housing. Los Angeles, California. http://www.planningreport.com/tpr/?story_id=1347&format=html&module=displaystory

Progressive States Network, Stateside Dispatch, (2007, August). Promoting Affordable Housing through State Policy. <http://www.progressivestates.org/content/654/promoting-affordable-housing-through-state-policy#1>

HousingPolicy.org, (2007, October). Getting Started: Learn About Affordable Housing – Whether You are New or Just Need a Refresher. http://www.housingpolicy.org/getting_started/why_not.html#Will+affordable+housing+decrease+nearby+property+values%3F

Other Resources

Jaimie Ross, "Creating Inclusive Communities in Florida: A guide for local elected officials and key staff on how to avoid the NIMBY syndrome" (Updated and Reprinted in 2005), available through the Florida Housing Coalition at www.flhousing.org

Sara Pratt and Michael Allen, "Addressing Community Opposition to Affordable Housing Development: A Fair Housing Toolkit" (Housing Alliance of Pennsylvania, 2004), available at www.knowledgeplex.org/showdoc.html?id=68549

Tim Iglesias, "Managing Local Opposition to Affordable Housing: A New Approach to NIMBY" 12(1) Journal of Affordable Housing and Community Development Law 78 (Fall 2002), available at <http://bazelon.org/issues/housing/articles/IglesiasMLOinprint.pdf>

As called for in the "American Homeownership and Economic Opportunity Act of 2000," the Regulatory Barriers Clearinghouse is established to collect, process, assemble and disseminate information on the barriers faced in the creation and maintenance of affordable housing. www.huduser.org/rbc/

Building Better Communities Network · 202-467-5730 x117 · [ww.bettercommunities.org](http://www.bettercommunities.org)

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

See also: *Fair Housing Programs*.