



Florida's Housing FRAMEWORK

Legislative Update, and COVID-19
August 12, 2020

PRESENTATION FOR FAC



Prepared by
Florida Housing Coalition

THE FLORIDA HOUSING COALITION



About the Florida Housing Coalition

- Statewide nonprofit provider of training and technical assistance on everything from ending homeless to first time homeownership
- Adaptive Reuse— Land Use— CLTs— Disaster Recovery--if it affects housing, we do it!
- Statewide Annual Conference is being held virtually- and you're invited! www.flhousing.org
- Local Government Planning, SHIP training and technical, focus on equitable development and COVID-19

Our Thanks to the Florida Housing Catalyst Program



AFFORDABLE HOUSING CATALYST PROGRAM

**Sponsored by the Florida Housing
Finance Corporation**



we make housing affordable™

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Topics To Be Covered

- Statutory Framework
- Government Resources
- Partnership between Government and Private Sector
- Land Value Creation and Land Value Capture
- NIMBY and Fair Housing
- Highlights from 2020 Legislation
- What's happening with CRF for housing
- Anything about housing that you want to know about!

What is Affordable Housing and Why is it Important?

- Affordable housing is defined in state statute— Ch. 420.004, Florida Statutes.
- Concept: when low income/low wealth families spend more than half their income on housing they are housing “instable”—one missed paycheck or crisis away from homelessness.
- Nearly a million very low-income households in Florida spend more than half their monthly income on housing costs.
- Florida has the third highest homeless population in the nation.
- Florida Chamber found concern about housing across all 67 counties

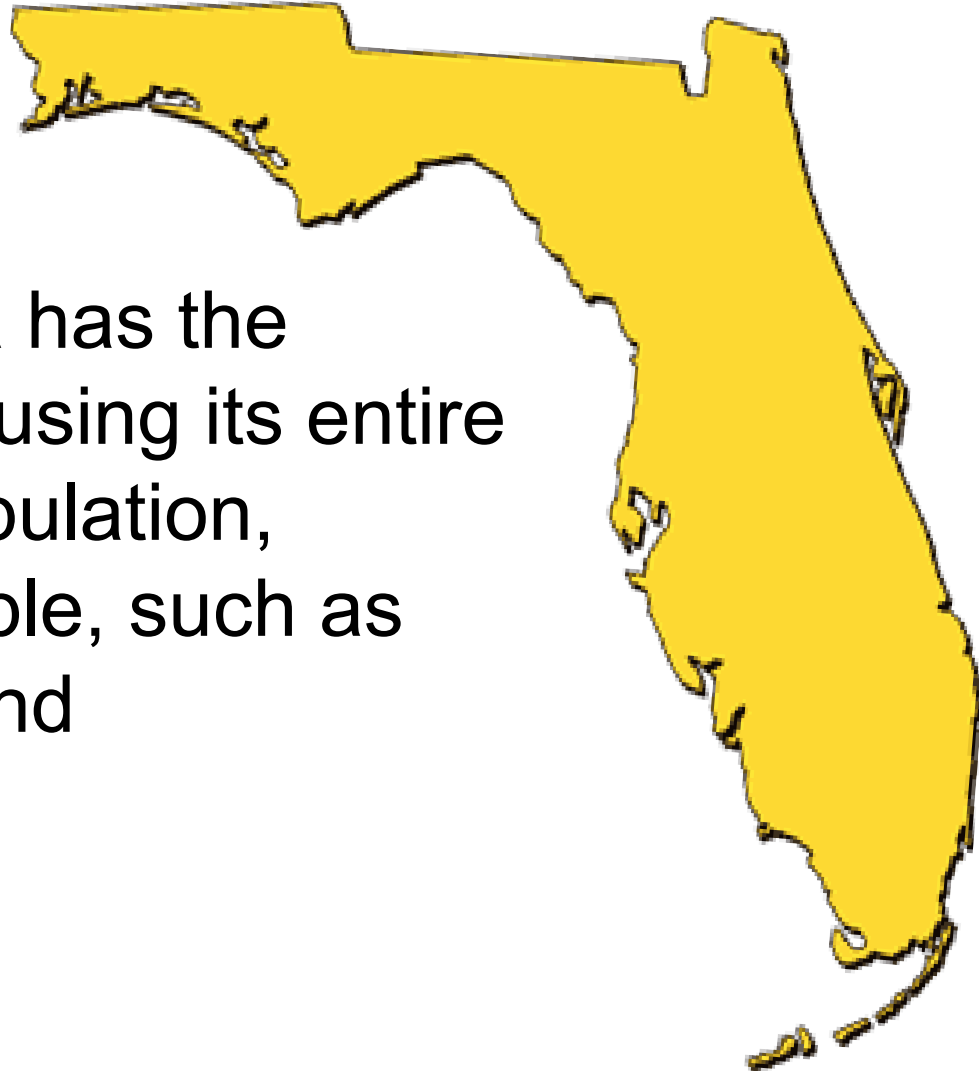
How is Affordable/Workforce Housing Produced?

- The public sector is legally required to provide that housing is available for current and anticipated population – Housing Element requirement – section 163.3177, F.S.
- But public sector does not build affordable housing - it uses its land use and financing tools to ensure that the private sector will produce affordable/workforce housing.
- Primary tools are **planning laws** and **financial subsidy**, using **incentives** and **requirements**.

State Law

- Every jurisdiction in Florida has the obligation to provide for housing its entire current and anticipated population, including the most vulnerable, such as those with special needs and farmworkers.

Chapter 163.3177 (6)(f)



The Housing Element of the Comprehensive Plan

- The Housing Element requirement does not mean that local governments build all this housing....
- It does mean that local government use its police powers **(to carry out laws for the health and safety of its residents)**, its land use authority, and its compliance with the spirit and intent of fair housing and affordable housing laws **to create an environment in which affordable housing will be built by the private sector.**

Regulatory Reform

Q: If local government reduces or eliminates impact fees and all other fees related to development, will the market produce affordable housing?

Q: If local government increased density, will the market produce affordable housing?

Will the Market Produce Workforce Housing Without Assistance from Government?

- Market-rate housing is priced at whatever the market will bear.
- The high cost of land and the costs of development must be recouped, but house prices are not derived from the cost of development, but rather what buyers are willing to pay.
- Understand the value of local government incentives and what the public should get in return – **regulatory reform done right.**

Land Value Creation and Land Value Capture

- When local government up-zones or provides density or incentives such as reduced parking requirements, it increases/creates value in the private property
- Requiring a modest amount of affordable/workforce housing to meet the housing element requirement is to capture a portion of that increased/created land value by the local government for the benefit of the public.
- In Rural Areas– consider the value created by local government for large scale developments– creation of new towns, especially in new urbanism design.

Planning/Permitting

- Local Government's role is to create an environment conducive for the private sector to produce affordable housing.
- Local land use planning and zoning codes can **help** or **hurt** affordable housing.



FLORIDA'S SURPLUS LAND

STATUTES FOR AFFORDABLE HOUSING:
A GUIDEBOOK FOR IMPLEMENTATION USING BEST PRACTICES



Sponsored by:



BBVA Compass

Surplus Lands

Surplus Lands for Affordable Housing

- 2006 Florida enacted the Surplus Lands Law
- **F.S. §125.379** mandates local governments prepare an inventory of properties owned fee simple by the municipality and identify those properties that are appropriate for affordable housing
- Donate for affordable housing. Sell and use the proceeds for affordable housing.

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Maximize the Use of Surplus Lands for Affordable Housing



- Florida Statutes: Sections 125.379 and 166.0451, commonly referred to as the “surplus land statutes
- Place all government-owned developable land on the affordable housing inventory list so all sale proceeds are earmarked for affordable housing purposes
- Developable land is any property that is not a sliver of property or a health hazard

Examples That Promote Affordable Housing

- Allowing accessory dwelling units in all residential zones (encouraged by state statute **163.31771**)
- Progressive impact fees (based on square foot rather than on unit)
- Inclusionary housing policies
- Inclusionary housing revisited in 2019 in HB 7103
- ADUs addressed revisited in 2020 in HB 1339

A photograph of a single-story yellow house with a red-tiled roof and white trim. The house features a large multi-paned window on the left and a white door with a small porch on the right. A white picket fence runs across the front of the property, with a small gate in the center. The house is surrounded by lush tropical landscaping, including palm trees and various shrubs. A light blue circular graphic is overlaid on the left side of the image, containing the text "Accessory Dwelling Units".

Accessory Dwelling Units



Supported in State Statute – Inclusionary Zoning

- **Section 166.0415 Affordable Housing.**–Notwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.
- Changes to the law from HB 7103 in 2019 session– keep developer economically whole by fully offsetting all costs
- That starts with land value creation and capture concept addressed earlier (workshop at FHC conf with Developer of Lake Nona)

Inclusionary Housing

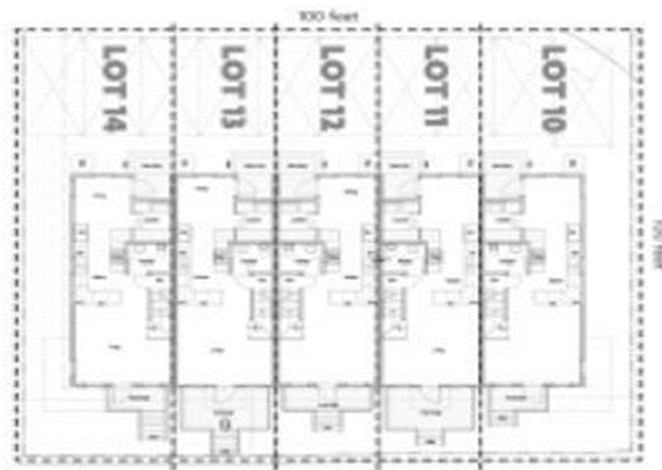
- A local land use regulation (planning tool) that requires the market rate housing developer to include a percentage of affordable housing within the market rate development
- Typically, to get units into the very low-income range, public subsidy is also needed- good example of where planning department and housing department can work together

Inclusionary Housing

INCLUSIONARY HOUSING

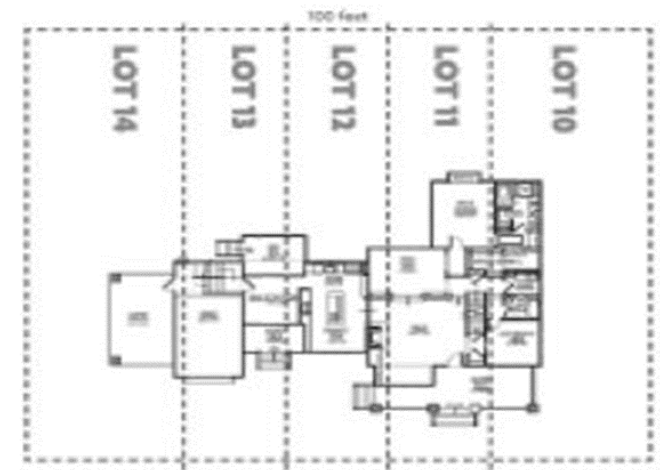


K2 - INCLUSIONARY HOUSING
PALM BEACH, FLORIDA



5 inclusionary lots on 1/4 acre

ESTATE HOME



1 estate lot on 1/4 acre

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Inclusionary Housing Best Practices

- Needs to have long term or perpetual affordability
- Needs to create as little burden on market rate developer as possible- local government should provide income compliance assistance
- Help the market rate developer to comply. Many ways to do this. One way is to use a CLT to provide pipeline of homebuyers or renters as well as to provide stewardship.



Community Land Trusts

- Removes land from the speculative market
- Nonprofit owns the land
- Leases for homeownership
- Florida CLT Institute has a CLT Certification program

Supported by Freddie Mac

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The Bungalows Davidson, NC

- Local Government Moratorium
- Sets level of service for affordable housing
- Affordable housing as infrastructure
- Holds charrettes for neighborhood
- Architectural design that meets neighborhood preference for single family homeownership and while meeting the priority for rental housing for very low-income workforce



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Missing Middle: Triplexes

Rental Housing that fits into
a single- family
neighborhood

2020 HB 1339- state
permission to locate
affordable housing in any
area.



EYESORE TO ASSET:

Building Housing Affordability +
Sustainable Communities

A GUIDEBOOK FOR ADAPTIVE REUSE OF VACANT RETAIL



Repurpose Vacant Commercial, Retail, and Industrial Properties – ADAPTIVE REUSE



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Financing & Affordability Assurances

- Providing subsidy to the developer to be used in the construction or rehabilitation of housing which will then be sold at an affordable price or rented at an affordable rent
- Government administers housing subsidy programs- state FHFC allocates tax credits (LIHTC)- most important, most competitive
- Local Housing Finance Authorities issue bonds (as does FHFC)
- Local Governments administer SHIP program and larger communities administer federal programs such as CDBG and HOME
- The private sector builds and manages affordable housing
- Subsidy agreements require long term affordability and compliance monitoring for rental
- For affordable homeownership, typically recapture agreements

Sadowski State & Local Housing Trust Funds

- Increased the documentary stamp tax and dedicated to state and local housing trust funds. Became law in 1992
- Approximately 70% goes to LGTF: SHIP- distributed on population-based formula.
- Approximately 30% goes to SHTF: SAIL (State Apartment Incentive Loan program) and other programs.
- Full appropriation in 2020, but SHIP vetoed by Governor
- What does that mean? Funding was not swept. We have one more finish line.
- www.sadowskicoalition.com

Governor uses \$250 million in CARES for housing administered by FHFC

- \$120 million for FHFC portfolio
- \$120 million for local governments- formula is based on unemployment and deployed through SHIP offices
- Focus- rent and mortgage assistance related to COVID hardship. TA provided by Florida Housing Coalition.
- This is in addition to the direct CRF to “Big Twelve” and the balance of 55 counties through DEM
- December 30th expenditure deadline

State Housing Initiative Partnership



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SHIP

Funding comes with planning requirements:

1. Expedited review of ALL permits (that includes every land use approval that may be needed—much more than expediting the building permit)
2. Ongoing process of review to consider the impact on affordable housing of new regulations, comp plan amendments etc.
3. HB 1339 requires an elected official to serve on AHAC, to attend trainings from the Florida Housing Coalition, and to do an annual report rather than a triennial report.



housing a stronger Florida

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Sadowski Coalition

Includes the Florida Association of Counties among 32 statewide organizations that work together every year to urge the Florida Legislature to use all the housing trust fund monies for housing.



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Avoid and Overcome NIMBY

Fair Housing Connection to Affordable Housing

Section 760.26, Florida Statutes



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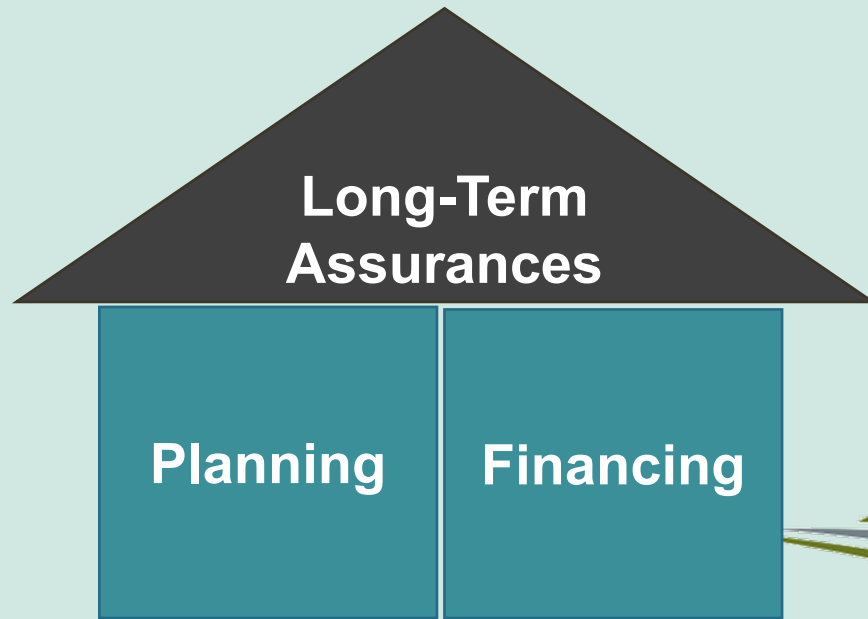
Florida Fair Housing Act CH. 760.26

- Additional protection for affordable housing development.
- Unlawful to discriminate in land use decisions based on the financing of the development.
- In plain English: Local government is not permitted to deny development approval of an apartment complex that is affordable (tax credit development, for example) if it would have approved a market rate complex.
- Helpful for local governments in NIMBY situations

**Embrace Housing
that is Affordable as
a Community Asset**
POLITICAL WILL is KEY



Planning + Financing + Long-Term Assurances = Affordability



Affordability

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“Takeaways”

- Local government has a robust role in producing and preserving affordable housing in Florida. The two main functions are:
 1. **Land Use Planning**; and
 2. **Financing (surplus land, government subsidies)**
- Local Government is not in the business of building affordable housing, but it does have an obligation to ensure that it does whatever it can **to help the private sector to meet the need.**
- **Housing Should be Affordable Long Term/Perpetuity when possible.**

FLORIDA HOUSING COALITION PUBLICATIONS

Access these valuable resources and more under the Publications tab at Flhousing.org

Housing News Network Journal

Florida Home Matters Report

Accessory Dwelling Unit (ADU) Guidebook

Affordable Housing in Florida

Affordable Housing Resource Guide

Affordable Housing Incentive Strategies

Case Management Guidebook

CLT Primer

Community-Based Planning Guide

Creating Inclusive Communities in Florida

**Credit Underwriting Guide for Multi-Family
Affordable Housing in Florida**

**Developing & Operating Small Scale Rental
Properties**

Disaster Management Guide for Housing

Guide to Using SHIP for Rental Housing

Guidebook for SHIP Administrators

**Creating a Local Housing Disaster Strategy-
Part 1: Hurricane Season Toolkit**

Landlord Collaboration Guidebook

PSH Property Management Guidebook

Residential Rehabilitation Guide

Surplus Lands Guidebook

**The Community Allies Guide to Opportunity
Zones**



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Questions?

JAIMIE ROSS
President/CEO
ross@flhousing.org



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AUGUST 31- SEPTEMBER 2, 2020 | ONLINE

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<https://flhousingconference.org/>