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Inclusionary Housing Policy in Cities of the South: Navigating a Path Between Continuity and Disruption

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ABSTRACT

Inclusionary housing policy (IHP) encourages developers to provide affordable housing in well-located areas. This can add to their costs and risks, so the process of policy adoption is complicated and contested. This paper provides a synthesis of the literature and then analyzes the efforts to implement IHP of two South African cities, Johannesburg and Cape Town. The core proposition is that making residential development more inclusive requires at least three ingredients to ensure meaningful change. First, the case for reform needs popular support and an active civil society to secure the backing of political leaders and officials facing resistance from entrenched real estate interests. Second, the policy needs to be feasible in an economic sense and calibrated in an incremental way that will not jeopardize private investment. Third, a robust legal framework is required to institutionalize the changes and to limit disputes and disruption.

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1. Introduction

Residential development in central Cape Town came to a halt about a year before the COVID-19 pandemic because of legal obstruction by civil society activists. They used national legislation to object to land-use planning applications by real estate developers to construct upmarket apartments without any affordable housing. These projects were criticized for reinforcing social segregation and exclusion because rising house prices and redevelopment pressures were eroding affordability for households with low and moderate incomes. In the absence of visible efforts by city authorities to resolve the impasse and reduce the uncertainties, some developers took fright and their projects were postponed or aborted.

Similar situations have prevailed in many other cities around the world in recent years, albeit without the same disruption and instability (Kallergis et al., 2018; Mazzucato & Farha, 2023; OECD, 2021). This is partly because city governments have been forced to take action by higher house prices and unaffordability for essential workers (Florida, 2017; Gurran & Bramley, 2017). Inclusionary housing policy (IHP) is one such response. It involves encouraging or requiring real

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estate developers to set aside a certain percentage (usually 10–20%) of below-market rate housing units within their new residential projects in exchange for incentives, such as enhanced rights to develop land and streamlined approval procedures (Hickey et al., 2014; Jacobus, 2015). Cities have looked to the private sector to deliver affordable housing because funding from central governments has been diminishing (Bento et al., 2009; Dawkins et al., 2017; Wang & Balachandran, 2023).

One perspective on IHP views it as an implicit tax on new development because developers are forced to subsidize the below-market rate housing, which reduces their return on investment (Bento et al., 2009; Hamilton, 2021; Schuetz et al., 2011). This is perceived to distort the housing market and it makes such policies controversial. It also implies that developers should be offered offsetting inducements or other compensations for the burden imposed on them (Calavita & Mallach, 2010; Wiener & Barton, 2014). A contrasting perspective says it is fair and reasonable for developers to share the increase in land values attributable to planning approval and other government actions, especially if it is reinvested in neighborhood improvements or social infrastructure (Jacobus, 2015; Lawson & Ruonavaara, 2020; Nzau & Trillo, 2021). This is commonly known as land value capture. The provision of affordable housing is described as a “developer obligation,” i.e., a contribution they must pay in exchange for development approval (Germán & Bernstein, 2018; OECD & Lincoln Institute, 2022). In theory, land values in the target areas should decline over time to reflect the additional costs for developers and their efforts to negotiate lower prices from landowners. IHP reforms will still be contentious and difficult to introduce because they challenge existing practices and expectations, and alter the established relationships between developers, landowners and the state—the “rules of the game.”

The United States has by far the most experience of IHP (Mukhija et al., 2015). Many European countries have also experimented with IHP, along with some in the Global South (UN-Habitat, 2021). The pursuit of inclusionary housing (or inclusionary zoning¹) in the US has been driven by the leaders of city and county governments, rather than states or federal authorities (Wang & Fu, 2022). The first initiatives emerged in the 1970s, although the policy really took off during the 1990s and early 2000s as buoyant real estate markets and rising prices made housing less accessible to low- and middle-income households. The most recent estimate suggests that there are over 1,000 IHPs in 734 local jurisdictions of 31 states (Wang & Balachandran, 2023). Against this, 11 states have passed laws preventing cities from enacting such policies because they are regarded as an unwarranted cost on residential development and an infringement on private property rights without just compensation (Greene et al., 2020; Hamilton, 2021; Silverstein, 2017). Decentralized origins and local adaptation mean there are many different versions of IHP, from voluntary to mandatory, diverse incentives to offset the cost, and multiple ways that developers can provide affordable housing—within their projects, on other sites, or through *in lieu* financial contributions to a ring-fenced fund (Floryan, 2010; Williams et al., 2016). If the inexpensive units are incorporated within the market-rate developments this can promote more integrated cities, as well as increase the stock of affordable housing.

The most rigorous research on IHP has also been undertaken in the US. The chief concern has been to measure the impact on local housing markets (Bento et al., 2009; Dawkins et al., 2017; Schuetz et al., 2009; Sturtevant, 2016). Key questions have been whether IHP really delivers more affordable housing in desirable locations, and who ultimately bears the cost of subsidising these homes—other housing consumers, producers or landowners? Does it amount to an additional tax which raises house prices and reduces development, or are the incentives sufficient to offset these effects? There has been little detailed or nuanced research on the process of policy design and adoption (Mukhija et al., 2015; Nzau & Trillo, 2021). So, little is known about how IHPs have been negotiated to manage the trade-offs, including the political tactics and technical calculations made by the protagonists and their opponents (Wang & Fu, 2022). This may be because many local governments are beyond the stage of policy deliberation and are actively pursuing

IHPs. In addition, developers may have grown accustomed to IHP as part of the cost of doing business, and adjusted their methods accordingly (Urban Institute, 2012).

There is far less experience of IHPs in the Global South, but growing interest in how to get started. This requires answers to process-type questions about how such policies can be advanced to improve their chances of gaining acceptance. This raises a variety of technical, political, and institutional issues because of the uncertainty surrounding their effects on the property market, the way that developers and landowners are likely to respond to more stringent conditions attached to approvals, and the adjustments required to their established ways of working. Property development is a high-risk industry subject to boom and bust, so policy interventions to shift its trajectory need careful design and dissemination to avoid unintended effects on confidence and investment, especially in weak markets where profit margins are smaller. Previous research has not shed much light on the important matter of shaping markets by changing entrenched practices, partly because most IHPs have been adopted in relatively strong housing markets, where the extra costs are absorbed more easily (Jacobus, 2015).

There are several reasons why inclusionary policies may be more controversial in the urban South than in the North. As a generalization, these cities tend to be more unequal and segregated than those in the North (van Ham et al., 2021). The larger gap between high- and low-income communities is bound to make it harder to bridge through inclusionary measures. This is both because of the affordability differential between groups and because finding common ground is more difficult in polarized societies, with less social trust and tolerance. Government capabilities also tend to be weaker in the South, especially at the local level, so there is less capacity to design and execute ambitious new policies (Mukhija et al., 2015; OECD & Lincoln Institute, 2022). The delivery of inclusionary housing is dependent on market-rate development, which requires navigating a fine line between what is fair and feasible financially, and what is unviable and unworkable. There is also less tradition of the state negotiating concessions from real estate developers in return for granting development rights, and less experience of extracting contributions to the cost of public infrastructure and other impacts of development (OECD & Lincoln Institute, 2022). Instead, landowners have typically benefited from the resulting uplift in land values through unearned rents or windfall gains. This is arguably unfair and financially unsustainable, especially where public resources for infrastructure and other facilities are severely constrained (Berrisford et al., 2018).

The central purpose of this paper is to identify the main conditions that enable effective IHPs to be adopted. We seek to do this through a nuanced, contextual analysis of the process of IHP formulation and implementation in two cities in South Africa at the forefront of these deliberations. We explore the interaction between the legal framework, political dynamics and technical aspects of policy design in order to reveal how inclusionary policy reforms were enacted in one case and obstructed in the other. The relationship between political leaders, municipal officials, property developers and civil society actors is of particular interest. What power did they exercise to try and change prevailing patterns of property development? What strategic positions did they adopt and how willing were they to compromise in order to progress the affordable housing agenda? By comparing two cities, the paper shows that within the same institutional and legal system, local socioeconomic and political circumstances still matter.

The original contribution of the paper is to advance knowledge of the preconditions for IHP success. The core proposition put forward is that reconfiguring residential property development to make it more inclusive requires at least three important ingredients to ensure systemic change and new norms of behavior. First, the case for reform needs popular support and an active civil society to secure the backing of political leaders and public officials in the face of resistance from entrenched real estate interests. Second, the new policy needs to be feasible in an economic sense, such that the conditions introduced will not jeopardize private investment. This requires technical capabilities on the part of the state to calibrate the policy and incentives carefully and to phase them in incrementally. Third, a robust legal framework is required to

institutionalize the desired changes, to discourage arbitrary decisions and to limit serious disputes and disruption.

The original evidence for the paper derives mainly from 31 extended interviews with the full range of stakeholders who were involved in IHP deliberations. They represented diverse perspectives and included senior officials from local and national government, property developers, private consultants and civil society organizations (see Online Appendix). After the principal actors at the heart of the policy process had been located and interviewed, other important informants were identified through chain-referral or snowball techniques. Most of the interviews were undertaken in 2021 and 2022 and lasted between one and two hours. They were complemented by an analysis of relevant policy documents and reports from the two cities and national government. The authors were also privileged to participate in nine high-level policy workshops and seminars on IHP involving many of the strategic actors and organizations, also listed in the Online Appendix. Some of these were public events and others were by invitation only.

The structure of the paper is as follows. The next section reviews the literature on IHP. This is followed by a short history of IHP in South Africa. Subsequent sections discuss the emergence of the policy in Johannesburg and Cape Town, before the threads are drawn together in the conclusion.

2. Literature Review

2.1. *The Impacts of IHPs*

The most systematic empirical research on IHPs has been economic in character and focused on quantifying the benefits and costs. Researchers have sought to discover whether there is a positive direct effect on the production of affordable housing, and whether there are adverse indirect consequences for the broader housing market through lower supply and higher prices. Much of the analysis has been guided by a concern that IHPs increase the costs of development, reduce the economic return, and worsen the overall shortage of inexpensive housing by discouraging development and inflating prices. This stems from the perspective of IHPs as implicit taxes on new development which distort the market, in contrast to the view that the government is entitled to a share of the enhanced land values attributable to granting planning permission. There has been less analysis from the viewpoint of land value capture, including whether the costs of IHP requirements are capitalized in the residual land values over time, leading to lower land prices (Nzau & Trillo, 2021). This is partly because the land value capture arguments for inclusionary housing have been less prominent than the need for affordable housing and, to a lesser extent, social integration.

The first and most straightforward question addressed in previous research is whether IHPs have actually increased the construction of affordable housing. This analysis is complicated by a surprising lack of systematic data collection and routine monitoring of IHP performance by relevant public authorities. Nevertheless, periodic surveys and use of secondary data sources indicate that IHPs have generally increased the supply of below-market-rate housing (Dawkins et al., 2017; Hickey et al., 2014; Nzau & Trillo, 2021; Porter, 2004; Sturtevant, 2016). Estimates suggest that, at a minimum, between 110,000 and 175,000 housing units have been built as a result of IHP regulations and incentives in the US, and probably substantially more because of missing data (Calavita & Mallach, 2010; Thaden & Wang, 2017; Wang & Balachandran, 2023). According to one estimate, the amount of affordable housing delivered by IHPs is 9% of all housing units built in jurisdictions where these policies exist (Wang & Balachandran, 2023). Furthermore, several studies have concluded that mandatory IHPs are more effective at delivering affordable housing than voluntary or optional policies (Hamilton, 2021; Mukhija et al., 2015; Wang & Fu, 2022). This could be because the value of the incentives available for optional IHPs is insufficient to offset

the cost of providing affordable housing. In addition, developers operating in places with mandatory IHPs may find it more difficult to opt out.

The second question addressed is whether IHPs have promoted neighborhood integration by enabling low-income households to access better-off and high-opportunity locations. There has been less research on this theme than on the others identified above. Relevant studies conclude that IHPs have contributed to social mixing and lower segregation, although much depends on how the policies are implemented and which households and areas are targeted (Calavita & Mallach, 2010; Kontokosta, 2014; Nzau & Trillo, 2021; Ramakrishnan et al., 2019). Furthermore, it seems possible to target central locations for IHP and to find developers willing to incorporate affordable housing within or adjacent to their market-rate projects, especially during upturns in the property market. Consequently, existing research tends to support inclusionary housing as a way to alleviate concentrated poverty and spatial exclusion. The extent of social integration varies according to the detailed composition of the IHP package and whether developers are permitted to provide affordable housing on separate sites or through an *in lieu* financial contribution.

Questions concerning the secondary effects of IHP are more complicated to research. This is partly because of data limitations, the unique character of each program, and assumptions made about how the housing market responds to additional costs. Nevertheless, at least one study using econometric techniques concluded that there was some negative impact in reducing the supply of new market-rate housing (Means & Stringham, 2012). The effect was modest in size and appeared to reflect the decisions of certain developers to invest more in cities without IHP restrictions. Against this, several other studies found no such effect (Bento et al., 2009; Hamilton, 2021; Mukhija et al., 2010; Rosen, 2004). One study found evidence of a positive impact on housing supply attributable to the density bonus incentive that accompanied the policy (Zhu et al., 2021). Another study found a small negative effect in one of the cities examined, but not in the other (Schuetz et al., 2011). The authors also found that the effect was largest when the housing market was strong, yet several other studies have found the opposite effect (Sturtevant, 2016). Indeed, many of these evaluations conclude that it is impossible to generalize because the effects depend on the detailed IHP characteristics, the incentives available, and local market conditions.

Slightly more studies have found that IHPs cause house prices to increase (Hamilton, 2021; Means & Stringham, 2012). Separate studies by Knaap et al. (2008) and Bento et al. (2009) found that house prices increased 2–3% faster relative to jurisdictions without the policy. Schuetz et al. (2011) found that house prices increased in both of the cities they studied, although the effects were quite small. One interpretation of this evidence is that housing producers are more likely to respond to IHP requirements by passing on the increase in costs to housing consumers than by slowing the rate of construction. Developers are better able to pass on the costs in stronger local property markets where residents are less sensitive to price (Nzau & Trillo, 2021). Developers may also be able to absorb some or all of the costs when profits are high (Jacobus, 2015).

From this body of evidence, it seems that IHPs can have a positive impact on the amount and location of affordable housing provided, but there may be modest adverse effects as well, depending on how the policy is structured and the circumstances in which it is implemented. In other words, there appear to be trade-offs in the design of IHPs, and balances to be struck between maximizing the positive effects and minimizing the negative. There is no agreement among past studies about the scale or significance of the net effects, how long the inclusionary housing remains affordable, or about the key factors among the various policy requirements and incentives that determine the overall outcome (Hickey et al., 2014; Sturtevant, 2016; Thaden & Wang, 2017; Wang & Fu, 2022). These mixed findings may reflect the fact that there are data limitations, each IHP is different, it is technically difficult to identify their secondary effects, and the impacts are conditioned by the state of the housing market. Nevertheless, the evidence seems

to support the broad conclusion that strong and profitable housing markets make it easier for developers to set aside below-market units (Ramakrishnan et al., 2019).

There are at least two implications arising for further research. First, it is important to extend and deepen previous impact evaluations with better data, improved analytical techniques and more intensive studies across a wider range of localities to isolate the effects of IHPs from all the 'noise' surrounding different policy configurations and housing market contexts. Second, research is required that recognizes IHP not only as a technical instrument to adjust carefully, but also as a social goal requiring institutional and behavioral change. It is important to learn more about how IHPs are designed and implemented to minimize risks of failure and to enhance success, especially in weaker and more challenging markets. What is distinctive about the political, economic and legal environment that enables them to gain traction, overcome impediments and alter developer behavior? How are the main trade-offs negotiated and the core policy elements transacted? What is the balance between technical analysis and rational calculation, on the one hand, and political arrangements and deal-making, on the other? Many authors have called for more research on the local social and institutional dynamics shaping IHPs (Hickey et al., 2014; Nzau & Trillo, 2021; Sturtevant, 2016). For example: "we still do not know enough about the political bargaining, design, implementation, monitoring and effects of IZ policies" (Mukhija et al., 2015, p. 230). Observers have also appealed for more studies in different settings, including from outside the US.

2.2. What Lies Behind the Adoption of Inclusionary Housing Policies?

Existing research on the process of IHP adoption and implementation is suggestive rather than empirically robust. Much of the literature takes the form of policy reports rather than grounded scholarship in peer-reviewed publications. These reports are intended to make the case for inclusionary housing and to identify pathways to success. They include brief descriptions of IHPs in particular cities to distill general messages about policy design and implementation for decision-makers to learn from. Many of these conclusions and recommendations seem anodyne and unremarkable. Policymaking is presented as a rational process of deliberation, with an emphasis on the technical issues of feasibility, legality, and financial viability. Little sense is conveyed of the sociopolitical realities, controversies, and institutional dynamics of how policies are actually changed through coercion and persuasion. The main actors and the choices they face are barely discussed, including how they overcome inertia and resistance from vested interests.

A highly cited Lincoln Institute report on inclusionary housing is a good example. It acknowledges that: "Little has been written about the process through which local communities develop and adopt inclusionary housing policies" (Jacobus, 2015, p. 22). It then proceeds to explain how "Many communities have created their policies through a similar process of (1) studying and understanding the housing need and the full spectrum of available tools; (2) educating and engaging the public; (3) researching the market economics; and (4) engaging with the real estate community" (Jacobus, 2015, p. 22). The report offers practical advice to embellish these steps by considering economic feasibility, building public support, consulting developers and being flexible in implementation. It is difficult to challenge these logical and commonsense suggestions. However, there are few details given about how cities have actually instigated IHPs—how they have navigated the practical impediments faced and negotiated the unequal burdens and benefits for different stakeholders.

A report by the Organisation for Economic Co-operation and Development (OECD) on land value capture in 60 countries includes inclusionary housing as one such instrument (OECD & Lincoln Institute, 2022). The general discussion is brief and mentions some of the dilemmas that governments face, including whether to apply standard rules to IHP or negotiate each project separately. The former tends to streamline procedures and reduce legal disputes. The report

concludes with three main recommendations for policy effectiveness: communication to improve understanding and support for these instruments; establishing fair and transparent rules to reduce challenges; and strengthening the capacity and expertise of local government to ensure effective implementation. There is clear overlap and consistency with Jacobus (2015), but once again, the messages are broad-brush and conceal the likely controversies and conflicts faced. There is no indication given of the concerted efforts required to prevent established institutions and patterns of real estate development from reproducing themselves, i.e., path dependence.

A UN-Habitat (2021) report on the role of land in affordable housing is rather similar in the very general treatment of IHP and the lack of insights into the dilemmas and risks that face real-world decision-making. The report summarizes previous research and the various permutations of inclusionary housing. Somewhat surprisingly, it states: “In principle, it is a simple instrument to apply as it mandates a fixed proportion of a development for affordable housing” (UN-Habitat, 2021, pp. 21–22). However, it subsequently acknowledges that IHP has been difficult to implement in some countries where developers have become adept at challenging the feasibility assessments of local authorities and thereby avoiding the obligation to provide affordable housing. No solutions are offered, except for a brief assertion to the effect that “local governments need to be firm in negotiating with developers” (UN-Habitat, 2021, pp. 21–22).

2.3. A Framework for Understanding

We propose a simple analytical framework to guide our empirical analysis, derived partly from previous research on IHP and partly from our own ideas. The framework comprises a set of propositions outlining the pathways to policy change, the obstacles encountered, and the preconditions for success.

The point of departure is to recognize that IHPs may impose conspicuous costs and risks onto developers, even if they are offset by incentives. Consequently, the decision to enact the policy is likely to generate an unfavorable reaction from them, and perhaps a threat to disinvest. This implies that the case for the policy needs to be communicated well to ensure public understanding and to challenge false narratives and misrepresentations. The rationale also needs to be convincing to gain popular approval as fair and legitimate. Active civil society support is important to garner endorsement and commitment from political leaders and public officials to advocate the reforms in the face of resistance from developers and investors. Political leadership is required to balance divergent interests and negotiate a reasonable way forward, with a meaningful contribution to affordable housing. This means creating opportunities for dialogue, learning, reciprocity and negotiating mutually beneficial outcomes, as well as mollifying extreme viewpoints.

Second, inclusionary policy needs to be technically feasible and workable in an economic sense, such that the restraints imposed will not jeopardize the viability of real estate development and arrest private investment, since affordable housing is directly linked to market-rate construction. This requires technical knowledge, feasibility studies, and reliable economic evidence on the part of city governments (or their consultants) so they can calibrate the policy carefully and phase it in to facilitate market adjustment and behavioral change. Administrative capabilities are needed to implement an array of complementary incentives which at least partially offset the cost of IHP. Risk mitigation measures are also required, including monitoring systems to detect unintended consequences and to review progress over time so that modifications can be made if necessary. Technical details, institutional capacity and economic realities are sometimes taken for granted or subordinated below political considerations by housing activists, but the costs and risks associated with introducing an IHP cannot be ignored (Grounded Solutions, 2018).

The third requirement is a robust legal foundation to entrench the policy changes in new legislative instruments and regulations which provide certainty and avoid piecemeal and arbitrary conditions being imposed on developers. This means fair rules and transparent procedures for calculating the costs and benefits of IHP requirements. Legislation is also important to safeguard the rights of all stakeholders to be consulted, to create space for deliberation and for conflict resolution mechanisms. Consistent pursuit of generally applicable rules should help to ensure that inclusionary housing practices become the norm and that some of the costs are absorbed by landowners. A clear and fair legal framework should deter frequent challenges from disaffected actors who could disrupt and derail progress.

3. The Evolution of IHPs in South Africa

Many stakeholders have shown interest in IHP in post-Apartheid South Africa, but it has taken several decades for a formal inclusionary policy to be adopted in any South African cities, and there is still no specific national legislation enacted. Material conditions are conducive, given the enduring legacy of racialized inequality, systematic dispossession, and stark residential segregation imposed under apartheid (Lynge et al., 2022). The country's democratic constitution recognized the history of social exclusion and urban housing neglect in adopting the transformative principle that "Everyone has the right to have access to adequate housing" (Constitution of the Republic of South Africa, 1996, Section 26(1)). The constitution also obliges the state to actively redress spatial apartheid by advancing access to land on an equitable basis. Taken together, these statements have been interpreted broadly to mean that people have the right to housing that is affordable and well-located, as well as secure, serviced, and habitable (Shandu & Clark, 2021; Tissington, 2011). Given the history of spatial separation from opportunities, it is widely understood that proximity to jobs and social infrastructure is vital to lift people out of poverty.

In practice, the government has failed to translate the objectives of well-located affordable housing into practical policies, programs, and projects on any significant scale (Cogger & Park-Ross, 2023; Turok & Scheba, 2019).² Much greater priority has been given to the mass provision of housing units on the urban periphery. This has reflected the political pressure for large-scale delivery of free-standing dwellings, while economising on land costs and avoiding Not In My Backyard (NIMBY) opposition in the core city and suburbs. Being given a housing unit has compensated many people for their lack of income and employment, but it has not enabled social integration and upward mobility. Direct state provision has ensured control over the process of housebuilding and insulated the rate of construction from property market cycles (Turok, 2016). It has also reflected the ruling party's ambivalence toward private enterprise and public-private partnerships, and has unwittingly removed any obligation on developers to make a contribution to affordable housing, or to promote urban integration and spatial justice.

Mounting criticism of the sprawling dormitory settlements that were built on greenfield land during the first decade of democracy seemed to precipitate a new housing policy in 2004 called Breaking New Ground. This promised to support higher density housing in accessible locations. It also signalled closer collaboration with private developers and contractors to improve the quality and quantity of housebuilding. An important conference involving government officials, private developers, and the banks in 2005 recommended that the private sector should help to tackle the housing backlog by setting aside a share of the value of new residential projects for investment in low-cost housing. The Housing Minister persuaded the participants to sign a Social Contract for Rapid Housing Delivery (Robertson, 2017; Verster, 2009). At face value, this committed the private sector to some form of inclusionary housing by stating that: "Every commercial development ... [must] spend a minimum of 20% on the construction of homes within human settlements for those who qualify for government subsidies" (Tissington, 2011, p. 71).

The next step involved the National Department formulating an IHP Framework, after undertaking additional research and seeking inputs from the private sector (NDoH, 2007). The Framework's aims were (a) to promote more socially balanced and racially integrated residential environments, and (b) to increase the supply of affordable housing. The expectation was that between 10% and 30% of new private houses would be affordable, with a focus on areas where property prices would otherwise exclude low-income groups. The proposed policy had both a voluntary, negotiated component (with incentives such as cheap public land) and a mandatory component (offering density bonuses and public infrastructure investment) (Klug et al., 2013). Two provincial authorities (Gauteng and Western Cape) and two municipalities (Johannesburg and eThekweni) were enthusiastic about the concept and began to ask the developers of large greenfield projects to include affordable housing within their schemes (Tissington, 2011).

However, the momentum that was building soon dissipated in the face of resistance. Legislation was never enacted to give effect to the IHP framework and to confirm that the mandatory component was constitutional. The South African Property Owners Association (SAPOA) came out strongly against a compulsory approach, stating that 98% of its members did not support inclusionary housing and that municipalities lacked the capacity to implement such a complex policy (Klug et al., 2013). They also criticized the vague definitions of inclusionary housing, the uncertain mechanisms involved, and the amount of effort required for little reward. Meanwhile, eThekweni Municipality (covering the city of Durban) tried to impose a city-wide IHP and force developers to include 20% affordable housing in all new projects. This high-handed approach without prior consultation hardened developer attitudes against IHP at any level. Their objections also need to be understood against a background of development rights being treated historically almost as entitlements for developers, rather than as resources to be negotiated over.

The Western Cape also tried to enact an IHP with mandatory provisions, but developers mounted a legal challenge,³ which they won (Robertson, 2017). The general hostility of the property sector to inclusionary housing seems to have caused a climbdown across government, and nothing was done for several years. IHP apparently became "a swear word" in government circles because of these controversies and failures (private consultant, pers. comm, 2018). Yet, a few years later the concept resurfaced in the Spatial Planning Land Use and Management Act (SPLUMA) and the Integrated Urban Development Framework (IUDF). Both followed the adoption of the National Development Plan in 2012, which reaffirmed the importance of urban integration and spatial transformation, without spelling out how this would be achieved.

The purpose of SPLUMA was to modernize and replace the old land-use planning system. In line with the constitution, it introduced the principle of spatial justice and sought to apply this to urban development. The act required the state to take active steps to redress past spatial imbalances and advance equitable access to land and housing for all (Van Wyk, 2017). SPLUMA was the first piece of national legislation to refer to inclusionary housing, arguing that municipal spatial plans must "identify the designated areas where a national or provincial inclusionary housing policy may be applicable ..." (SPLUMA, 2013, p. 20). This meant spatial targeting to overcome segregation and exclusion. Elsewhere it stated that municipal planning may "provide measures related to the approval of a development application which requires the use of land for identified inclusionary residential and economic purposes" (SPLUMA, 2013, p. 64). In effect, this encouraged local governments to adopt an IHP and use it when deciding on individual planning applications. According to the activist non-governmental organization (NGO) and law center Ndifuna Ukwazi (NU), "this new planning regime opened the door not only for municipalities to implement inclusionary housing, but created the legal basis for civil society to advocate for the tool" (Cogger & Park-Ross, 2022, p. 48). There is some debate about whether SPLUMA put obligations on municipalities to adopt IHPs and whether they were authorized to impose such requirements on property developers (Development Action Group (DAG), 2021). The OECD and Lincoln Institute (2022) state that there is still no legal basis for land value capture in South Africa. The

government's continuing hesitation about formulating an actual IHP has not helped to resolve this uncertainty.

The other relevant policy is the IUDF: the "government's policy position to guide the future growth and management of urban areas" (Cooperative Governance and Traditional Affairs Ministry (COGTA), 2016, p. 7). The IUDF provides explicit support for IHP, but again in the form of general encouragement rather than a concrete policy with practical guidelines, tangible commitments, and a proper legal framework: "Inclusionary housing can result in increased integration and enable lower-income groups to access housing and employment in higher-income areas" (COGTA, 2016, p. 66). It also endorses partnerships between the state and private sector to tackle urban challenges and promote transformation. Besides some high-level endorsement from SPLUMA and the IUDF, municipal interest in IHP has also been spurred by the search for new ways of funding affordable housing following recent cutbacks affecting the main government housing program.

4. Johannesburg's Tentative Approach to Inclusionary Housing

The City of Johannesburg was the first municipality in the country to adopt an IHP. As the largest city and economic hub, this has been significant symbolically. Johannesburg's IHP has taken many years to be approved, after several false starts and ad hoc initiatives. In 2003, the City negotiated some inclusionary housing in a new project in Ruimsig, on the northeastern edge of the city. The intention was to curb development and densify sites in such locations.

The inclusionary aspect was only partially successful (Klug et al., 2013) and the policy did not progress, mainly because national support for IHP diminished. There were also internal complications, as the policy responsibility was transferred from the planning department to housing, which had little interest or capacity to take it forward. Consequently, the idea went into abeyance until the Gauteng Province tried to revive the concept and the City introduced inclusionary housing as part of its Growth Management Strategy.⁴

Provincial officials had attempted to enact an Inclusionary Housing Bill in 2008, but there was little support from politicians and it was not until 2016 that they tried to salvage the 2008 bill. Consultants were hired to test various scenarios for incorporating affordable housing within high-income projects. They concluded that "implementation of the IHP in exclusive residential developments is not feasible. It appears to have negative impacts on expected returns of large-scale residential projects" (KPMG, 2016). This effectively squashed the initiative. A year later, provincial officials drafted another IHP, but it was never promulgated (Cogger & Park-Ross, 2022). In retrospect, the technocratic approach of provincial officials was not accompanied by pressure from civil society and the provincial leadership remained lukewarm about championing the issue.

Meanwhile, the rationale for IHP in Johannesburg has increased over time. Although the racial composition of the core city has changed and there have been mixed-income developments elsewhere, the vast majority of poor, black residents still reside on the periphery (Lyne et al., 2022). They experience long, costly, and hazardous commutes to the main economic nodes. A bus rapid transit system was introduced to promote densification, but it has had little impact on spatial patterns (Harrison et al., 2019). The ruling party (the African National Congress, ANC) has also been losing voter support in Johannesburg, so there has been a political incentive to promote IHP as a way to dilute opposition strongholds in middle income areas.

Following SPLUMA and the IUDF, the City's planning department grasped the opportunity to instigate an IHP. National endorsement provided legitimacy for local regulations to give direction and guidance within the city. The initiative came from a group of proactive planning officials in the City Transformation unit. They argued that an IHP instrument "could [try] to match [tackle] ... the live and work [mismatch]" (Interview 1). It would be a useful "additional mechanism to

actually ... be providing affordable housing ... it would lead to more integration ... and begin to bridge certain class gaps" (Interview 1). The planners wanted IHP to spur social inclusion and spatial change, in line with the City's Spatial Development Framework. They recognized that it would only be "a drop in the ocean" but still argued that "it could assist the spatial transformation that we seek" (Interview 1).

Concerted bureaucratic activism by these energetic officials was able to get an IHP approved. Facing internal resistance at the outset, they gained support by negotiating, cajoling, and engaging other units within the City. They also navigated their way around a specific moment of political transition. The original mayor who backed the idea was Parks Tau from the ANC. In 2016 he was voted out and replaced by Herman Mashaba from the main opposition party, the Democratic Alliance (DA). He seemed to endorse the IHP and was remembered as saying: "I've been waiting for this for a very long time. I'm glad that it's finally here" (Interview 2). The officials thus found the ear of two successive mayors, which gave them sufficient time to get the regulations accepted by the administration. The DA was in coalition with the radical Economic Freedom Fighters (EFF), which also backed the idea.

The officials were aware of the longstanding resistance from private developers. SAPOA had acknowledged the need for spatial integration, but objected to the previous IHP. City officials embarked on a series of public events and panel discussions with developers. They sought their advice and listened carefully to their concerns (Interview 1). The officials were keen to launch an IHP and avoid continuing opposition. They tried to calibrate the obligations and incentives in ways that developers could tolerate, while being faithful to the basic principles. This was a very difficult path to steer and required concessions, as explained below.

The IHP was passed by the city council in February 2018. It was described as:

A housing program that, through conditions attached to land use rights approvals, requires private developers to dedicate a certain percentage of new housing developments to low income and low middle income households, or to households that may not otherwise afford to live in those developments. (City of Johannesburg, 2019, 2).

The policy mandated that all new projects with 10 units or more would require an inclusion-ary (rental) housing component of 30%. Developers were offered four options to comply (see Table 1). One was a designated percentage of the total number of units with a rental cap of R2100 (£90/\$120) per month excluding utilities. Two others were for the provision of micro-units, such as studio flats or bachelor apartments. The fourth option was more open-ended, for developers to negotiate a mutually advantageous plan with the City. Developers were promised density bonuses, lower parking requirements, smaller bulk infrastructure contributions and rates rebates as incentives to offset their extra costs.

The decision to allow developers the option of small units without either price or occupancy controls reflected important concessions to get the policy approved. Some of the DA councillors had close relationships with the property sector and would have opposed price controls across all four options because of developer objections. In the draft IHP released for public comment, the proposed price controls were offset by the various incentives mentioned above. However, other City departments responsible for these functions blocked them, either because they undermined their own policies or were difficult to implement. Consequently, the agreement that emerged held that it was unreasonable and infeasible to impose price controls on developers and that using size was the best compromise (Weakly, pers. comm., 2023).

For developers interested in the negotiated option, the City devised a calculator to help make transparent their final costs after all the incentives were taken into account. This provided a useful platform for engaging with developers, as an objective, technical instrument for use by both parties. The calculator and the various options provided some reassurance to the City administration and developers that both sets of interests were being considered.

Table 1. Johannesburg's inclusionary housing policy options and associated incentives.

Option	Description	Detail	Incentives (summary)
Option 1	30% of dwelling units are:	Social housing; or Finance Linked Individual Subsidy Programme (FLISP) housing; or housing with a rental cap: R2100 per month (2018 prices)	Increase in Floor Area Ratio (FAR) equal to the total % of inclusionary housing (max 50% increase). Increase in density (in du/ha) to accommodate the extra units. Parking reduction for inclusionary units.
Option 2	10% of the total residential floor area is made up of small units. At least 30% of total units in the development must be inclusionary housing.	Minimum: 18 m ² ; maximum: 30 m ² ; average: 24 m ²	Increase in FAR to accommodate the 10% floor area for inclusionary housing. Increase in density (in du/ha) to accommodate the extra units. Parking reduction for inclusionary units.
Option 3	20% of the total residential floor area is made up of units that are 50% of the average market unit size. At least 30% of total units in the development must be inclusionary housing.	Maximum: 150 m ² ; Minimum: 18 m ²	Increase in FAR to accommodate the 20% floor area for inclusionary housing. Increase in density (in du/ha) to accommodate the extra units.
Option 4	To the satisfaction (in writing) of City Transformation and Spatial Planning, City of Johannesburg.		

City officials believe that the IHP has been largely accepted by the private sector: "I think broadly, it's been positive. We, get very, very few people who say they don't want to do it at all" (Interview 6). The response from developers who were interviewed has been very mixed, with some saying the policy is weak and doesn't change their behavior. One large developer stated that "we've been doing it [smaller, more affordable units] so never fazed us in the slightest" (Interview 4). Another developer agreed that the policy is not affecting their activities: "I don't think that the IHP has actually driven any of the decisions of residential developers, particularly in the higher income areas. Yeah, I don't think the inclusionary housing policies are that effective" (Interview 25).

Others maintain that although the policy looks acceptable on paper, the reality is "chalk and cheese" because the restraints are not offset by sufficient inducements. There is particular skepticism and mistrust in the City's ability to implement incentives. Another respondent stated that "everyone is just too nervous to go ahead" (Interview 29). Some developers also debate whether incorporating inclusionary housing makes financial sense, even with incentives.

Despite objections from certain developers, residential projects do seem to be proceeding with an inclusionary housing component (Figure 1).⁵ The COVID-19 pandemic curtailed development for about two years, yet the number of inclusionary housing units approved has increased recently, with almost 4,000 ratified since 2019 (City of Johannesburg, 2022), and a further 4,000 approved by the end of 2023 (Maphumelo, pers. comm., 2023). Many schemes have not yet broken ground, but the upward trajectory of approvals is notable in a lackluster market. City officials attribute this to their pragmatism and willingness to negotiate reciprocal arrangements with interested developers. Yet, there are lingering concerns about the IHP accepting unit size to qualify for being affordable, rather than property price. The criticism is that small units are not necessarily accessible to low income residents: "The lack of qualifying (affordability) criteria therefore dilutes the potential of the policy to contribute to meaningful spatial transformation" (Cogger & Park-Ross, 2022, p. 53). Given the relatively strong market demand for studio flats and

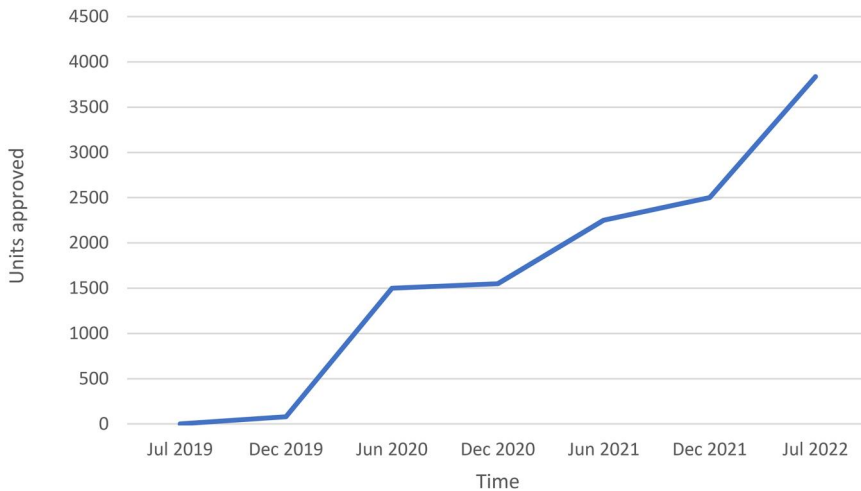


Figure 1. Cumulative inclusionary housing units approved by the City of Johannesburg.

the location of qualifying developments in Johannesburg, this comment seems pertinent, although further research is required to really evaluate the impact. It appears that the market has been moving toward providing smaller units, which may be affordable in some areas but not in others.

All things considered, the City deserves credit for pioneering an IHP in the face of long-standing opposition and widespread skepticism. It has taken the first tentative steps toward gaining acceptance for the idea that the private sector should contribute to the provision of affordable housing. There is considerable scope to learn from, and refine, Johannesburg's experience, so that future iterations of the policy can be more inclusive and transformative.

5. Cape Town's Unresolved and Disruptive Standoff

IHP has been slower to gain traction in Cape Town, despite sustained pressure from civil society. Buoyant house prices in an exclusionary land market have attracted burgeoning private investment in upmarket apartments. This has been countered by vigorous civil society activism, both critical and constructive, demanding more affordable housing in well-located areas. One of the obstacles has been a cautious City administration and political leadership apprehensive about social and institutional change, and struggling to balance conflicting private and public interests (Cogger & Park-Ross, 2023). The resulting inertia and stalemate have prompted some developers to abandon or postpone their planned projects and others to embark on their own inclusionary housing initiatives.

Residential property prices in Cape Town are on average 30% higher than in Johannesburg and more than 50% higher than in the other South African metros (Anderson, 2019; Centre for Affordable Housing Finance in Africa (CAHF), 2021). The City Council has acknowledged that there is "a more exclusionary property market in Cape Town than in other cities ... [with] an affordability crisis at multiple income thresholds" (City of Cape Town (CoCT), 2021, p. 21). The housing problem is very large and growing, with approximately 344,000 people on the City's housing needs register and an estimated shortfall of 23,000–38,000 formal houses per annum (CoCT, 2021).

The core city attracts disproportionate interest from developers because of its unique natural amenities and the concentration of economic and social opportunities (CoCT, 2023; Turok et al., 2021). In recent years the City Bowl and surrounding areas have become increasingly popular destinations for higher-income groups to live, work, study, and socialize. Rising house prices and

redevelopment pressures have eroded affordability for residual working-class communities and fuelled gentrification and displacement to outlying townships, where low-income households bear a heavy transport burden to access central jobs and amenities (CAHF, 2018; CoCT, 2021; Mtyala, 2016).

There was a strong uptick at the top end of Cape Town's property market following the global recession in 2008/09. Developers homed in on constructing luxury flats in and around the central city. The boom was stoked by foreign investment in property, Airbnb's success in the rental market and the buoyant local tourism and technology industries (Anderson, 2019; Muller, 2017). The median sales price of Central Business District (CBD) apartments rose by over 20% per annum on average between 2014 and 2017, despite their average size falling from 83 m² to 52 m² as smaller units became popular (Cape Town Central City Improvement District (CCID), 2018). An influential report warned of irrational exuberance and a speculative bubble (CAHF, 2018).⁶

The heightened activity triggered social grievances, especially when tenants who couldn't afford the rising rents were evicted with nowhere else to go. Civil society organizations protested about the deepening socioeconomic and racial divide between the heart of the city and the marginalized periphery.⁷ Campaigns against exclusive property developments in core areas gathered momentum, especially where the sale of public land seemed to support them (Furlong, 2016). A former school site known as Tafelberg in Sea Point was a flash point. In 2016 the Province sold it to a private company for \$9 million and rejected a proposal that a portion be earmarked for affordable housing for key workers travelling from far afield. Legal activists challenged the decision and in 2020 the court annulled the sale on the grounds that the Province had breached its constitutional and legislative obligations to advance equitable access to land and affordable housing (Cogger, 2022).

Tafelberg marked a shift in tactics for civil society activists from reacting to evictions toward a more proactive approach to urban transformation. SPLUMA provided a legal foundation for challenging the legitimacy of exclusive residential developments (Jason, 2019). NU researchers began to monitor all planning applications for rezoning in areas of opportunity. They used public participation provisions to submit formal objections to every scheme larger than 30 units. This triggered an automatic delay for referral to the Municipal Planning Tribunal (MPT) for adjudication.⁸ NU also appealed some of the MPT decisions, causing further project delays. Both actions created huge uncertainty and financial costs for developers by deferring construction. NU objected to more than 50 planning applications over a five-year period (Cogger & Park-Ross, 2022, 2023).

One objective was to pressure the City to approve an IHP so the provision of affordable housing by developers could become institutionalized and routine. Another was to demonstrate that the City could compel developers to contribute even without an IHP by imposing conditions on planning approvals. Not surprisingly, their antics raised a furore in the MPT, especially as dozens of NU activists attended each meeting to voice their opposition to the projects under discussion and to broadcast the proceedings live on social media platforms (Cogger & Park-Ross, 2023). According to one official, "we didn't know what hit us ... the process was fraught ... it created great uncertainty about the role of the MPT" (Interview 19). Developers felt intimidated and aggrieved that their projects were being threatened in this way. Their collective voice—the Western Cape Property Development Forum—viewed IHP as an unwarranted tax that would drive investment away, unless it could do much more to enhance project viability (Interview 7). The convenor of their working group on IHP said: "The property and construction industry has been caught in the crossfire between the City of Cape Town ... and social activist groups who have continually objected to residential developments" (Western Cape Property Development Forum (WCPDF), 2019).

Some City officials worried that MPT members were exceeding their authority when they began to negotiate with developers and add conditions to their approvals (Interview 19). They believed the MPT was not entitled to get so closely involved without a City IHP to guide their

decisions. They were also very alarmed when several developers took fright and abandoned their projects. In some cases, developers appealed against the inclusionary housing conditions added by the MPT, and the Mayor's executive committee usually overturned these conditions (CoCT, 2023). Other developers, however, responded by offering to make deals to get approval. NU estimates that 16 of the 50 objections resulted in developers proposing to make a contribution, adding up to about 600 housing units altogether (Cogger & Park-Ross, 2022, 2023). Most of these projects are unlikely to proceed for various extraneous reasons, but several went ahead, partly out of enlightened self-interest. For example, Amdec voluntarily provided 100 rental units at 50% of the market rent in the first phase of their major Harbour Arch development, amounting to 10% of the total. These were 30 m² one-bedroom units earmarked for employees in the building (e.g., security staff). Other examples of developers with an appetite for inclusionary housing are described in Cogger and Park-Ross (2022).

Most stakeholders agree that a City-approved IHP would be preferable to the MPT considering projects piecemeal (Jason, 2019). With transparent rules and regulations, decisions would be quicker and more consistent, and there would be fewer appeals (CoCT, 2023). This would reduce the holding costs for developers and lower the ultimate unit prices. Greater certainty would reduce disputes and raise investor confidence, leading to better outcomes for affordable housing. At least one developer recognized that an IHP would enable him to negotiate lower land prices. Officials embarked on the preparatory work with a 15-page IHP concept document (CoCT, 2018). They commissioned consultants to undertake a feasibility analysis of the various parameters. Progress was expedited by an unusually supportive DA politician leading the housing portfolio, Brett Herron, who was new to the party and committed to spatial justice and affordable housing. He brought property developers, civil society organizations, and external experts together to find a path through the quagmire. As part of a longstanding program of research and advocacy work on land value capture, the community development NGO called Development Action Group (DAG) organized a series of well-attended workshops that articulated the case for IHP through this lens. They helped to soften relationships between stakeholders and improve understanding of this mechanism, even if they did not reach consensus (Interview 14).

The City's concept document identified three options for IHP, drawing on international practice (CoCT, 2018). Developers could provide affordable units alongside their market-rate apartments on the same site or off-site in a nearby location. Alternately, they could contribute fees-in-lieu to fund affordable housing elsewhere. The document proposed mandatory provision in targeted areas and voluntary elsewhere. The City would make this palatable to developers by providing simpler procedures and other incentives, including density bonuses, relaxed parking requirements, lower development charges and fast-track approvals. A sticking point was ensuring that the units remained affordable in perpetuity and were not traded on the market. One potential solution was to enlist social housing institutions to manage them as rental stock.

The impetus was set back when Herron suddenly resigned in November 2018 out of frustration with his fellow councillors, who were skeptical of spatial transformation and sympathetic to mainstream developers (Olver, 2019; Turok et al., 2021). The feasibility study was not published and the concept document was not converted into a formal policy, despite pleas from officials and promises from politicians (Cogger & Park-Ross, 2022, 2023). The City's Human Settlements Strategy stated in bold text that: "incentives must be created to enable the delivery of affordable homes by the private sector in order to avert Cape Town's housing crisis" (CoCT, 2021, p. 23). The same document was more equivocal later on: "The Inclusionary Housing work has entered the City's policy process ... and may result in the adoption of an Inclusionary Housing Policy" (CoCT, 2021, p. 93). Land-use planners in the City called for an IHP because of the increasing unaffordability of housing in the CBD (CoCT, 2023). However, leading politicians harbored ideological and technical doubts, and seemed to retreat in the face of pushback from developers and affluent residents' associations (Cogger & Park-Ross, 2022, 2023).⁹

Meanwhile, the COVID-19 pandemic paralyzed the property market and curtailed many development applications. The new DA mayor elected in November 2021 seemed to sympathize with the developers' perspective and shifted the City's attention onto other matters. He questioned whether an IHP was worth the effort and doubted the City's capacity to administer it (Cogger & Park-Ross, 2022). Officials were asked to undertake further investigations without committing to approve a policy.

Just when it seemed that the prospects were diminishing, the Western Cape provincial government issued a 45-page draft IHP framework in May 2021. It was meant to guide municipalities, recognizing that they are responsible for implementation. The process was driven by a senior planning official who had previously worked at the City of Cape Town and who supported urban integration and spatial transformation. The timing—shortly before the municipal elections—gestured to DA concern about affordable housing at a time of heightened public interest. The document provided a cogent rationale for IHP, framed around land value capture arguments and exclusionary housing markets, and identified the main policy options. It was approved in November 2022 after public consultation (Western Cape Government (WCG), 2022). This encouraged a neighboring municipality to introduce the concept of inclusionary housing as a condition of private development in a priority area known as the Adam Tas Corridor (Stellenbosch Municipality, 2023). The Province also commissioned four housing studies in other major towns which revealed highly polarized markets with striking imbalances. Developers were catering for high-income households by building luxury homes in the suburbs, but ignoring the demand for more affordable homes for middle- and lower-income households. This revelation helped to persuade the provincial cabinet to approve the IHP framework.

Summing up, there is a standoff over IHP in Cape Town, with a three-way tension between civil society activists, property developers, and local politicians. Conditions were ripe during the real estate boom for investment in additional rungs on the housing ladder. However, political leaders retreated in the face of technical uncertainties and developer resistance, despite the hiatus the policy vacuum caused. The cooler property market has reduced the scope for the moment, but the discord is likely to re-emerge when conditions recover. In the meantime, there have been signs of progress and learning, including some developers testing options for affordable housing and municipal initiatives to reduce some of their regulatory hurdles.

6. Conclusion

There is a compelling argument for South African city authorities to advance social justice by encouraging private developers to provide affordable accommodation in central locations. Part of the rationale is that rising land values stem from government action as well as private investment, and should be shared in the public interest. This is complemented by a constitutional injunction that the state should actively redress spatial apartheid and support social and economic integration. Yet, within a predominantly market economy,¹⁰ such a policy needs careful calibration and negotiation to avoid alienating private investors and to ensure project viability. Private developers and landowners in South Africa have been accustomed to reaping all the rewards from development rights and rising land values with few social obligations, and feel threatened by a growing regulatory burden and decisions shaped by broader social and political considerations. IHP can encourage their participation by granting additional rights, streamlining procedures, reducing onerous charges, and relaxing inappropriate standards. An understanding of the whole land value capture phenomenon, and the requisite technical capabilities and financial competencies to pursue appropriate opportunities, is only just emerging within municipalities, so practical experimentation and incremental advancement are bound to be necessary.

In the absence of a national IHP to establish basic ground rules, guidelines, and political legitimacy, selected cities have begun to introduce their own schemes. Progressive officials have

managed to enact an IHP in Johannesburg, although it allows 'inclusion' to be defined by property size rather than price. The policy has coincided with a market trend toward studio flats, making it palatable to some developers. For the policy to make a bigger impact on social inclusion and spatial integration, more emphasis will have to be placed on the affordability of the units provided. Political leaders in Cape Town have been more hesitant about IHP, despite sustained demands from civil society and the resulting uncertainty and disruption. Without more policy progress, the controversy may intensify as the property sector recovers and development pressures reappear.

South Africa's experience offers three broader lessons about the preconditions for IHP as a mechanism for making residential property development more inclusive. First, politics and perceptions matter greatly when enacting IHP. Developers are bound to push back against such policies because of the extra costs that may be incurred when the rules of the game are altered. Therefore, the argument for IHP needs to be persuasive and communicated effectively to the whole community in order to build an effective support base. Political leaders and municipal officials have crucial roles to play as advocates of change and mediators between different private and public interests. There was more emphasis in the City of Johannesburg than in Cape Town on creating opportunities for dialogue and mutual learning to reconcile different views and negotiate acceptable outcomes with stakeholders. Cape Town's lack of transparency and limited external engagement provoked an adversarial response from civil society, which brought about a damaging impasse.

Second, the economics of inclusion matter alongside political practices. Housing activists are inclined to play down the technical details, but the real economic costs and risks of IHP cannot be ignored. The provision of affordable housing needs to be financially feasible for developers so as not to deter private investment. What developers can contribute will vary in different places and over time, which requires city governments (or their consultants) to have technical knowledge and reliable evidence of housing market conditions to calibrate the policy effectively. They also need to offer complementary incentives to offset the costs, and monitoring systems to identify unintended consequences in subsequent years. Phasing the policy in should help to gain acceptance and buy time for the land market and development practices to adjust. Ways of reducing residual land values should feature in the analysis and policy. The cities of Johannesburg and Cape Town both recognized and investigated the economic costs of IHP, but they responded quite differently, reflecting differences in political orientation among leaders and senior officials. Johannesburg pulled back to a less demanding policy, whereas Cape Town decided not to adopt any kind of policy for the time being.

Third, a reliable legal foundation is important to embed IHP in consistent principles and procedures which create more predictable decisions and help inclusionary housing practices to become the norm. Laws and regulations can also guarantee opportunities for consultation and deliberation, which help to curb disputes. The legal framework for IHP is a weakness in Johannesburg and Cape Town, which creates all kinds of risks, uncertainties, and challenges. There is no national legislation to authorize and enable these policies, which puts all the onus onto municipalities to institutionalize rules and procedures, and discourages local initiative. The City of Johannesburg had the political conviction to embark on this process, but acknowledges there is room for improvement. Civic leaders in Cape Town are much more apprehensive about whether the journey is worth the effort.

These two cases demonstrate the technical complexities and political difficulties involved in balancing the incentives to sustain private property investment with the restraints required to advance social inclusion through affordable housing. This is a microcosm of the broader challenge facing many progressive policy reforms by the state in a predominantly market economy. These require astute judgment and a competent administration close enough to conditions on the ground to fathom what works, to engage developers and civil society stakeholders in creative problem-solving, and to respond appropriately if and when changing circumstances require policies to adapt. If the approach is too exacting and uncompromising, private investors are

likely to steer clear of the city, but if it is too light-touch and undemanding, historic patterns are likely to persist and there will be few social benefits. Neither Johannesburg nor Cape Town have got it right, but conditions in both cities are fluid, enabling policies to change and greater progress to be made in the future.

Notes

1. Inclusionary housing is sometimes referred to as “inclusionary zoning” (IZ) because the requirement to build affordable housing may be implemented through an area’s zoning code. We use the broader term of inclusionary housing in the paper because similar requirements can also be imposed outside the zoning code (Jacobus, 2015).
2. According to the constitution, housing is a shared responsibility between the national and provincial governments. In practice, national government is mainly responsible for housing policy, the funding framework, and setting norms and standards, and provincial governments for implementation through housing projects and subsidies. Municipalities are mainly responsible for the associated infrastructure (roads, water, sanitation, electricity, waste removal) and for planning and managing land for housing developments. Their role in approving land-use planning applications is crucial to negotiating the provision of inclusionary housing by developers.
3. *Department of Environmental Affairs & Development Planning (DEADP)’s Minister, Tasneem Essop v. SLC Property Group (Pty) Ltd and Longlands Holdings (Pty) Ltd.*
4. Despite the mandatory inclusion of inclusionary housing in the 2008 Growth Management Strategy, part of the Spatial Development Framework generally never applied (Cogger & Park-Ross, 2022).
5. Unfortunately, the data is not disaggregated so it is not possible at present to get a sense of the type, price, or location of the inclusionary housing. The City intends to make their monitoring and evaluation more sophisticated in the future.
6. For example, the developer of an apartment block offered anyone purchasing the penthouse flat (costing \$1.3 million) a free Jaguar SUV worth more than \$60,000 (Villette, 2017).
7. They included the Social Justice Coalition, Ndifuna Ukwazi (NU) and Reclaim the City (Hendricks, 2019).
8. An MPT is analogous to a planning board or planning commission in other countries.
9. NU even took the City to court in 2019 for its failure to adopt an IHP. Shortly afterward, the City announced that it would develop a policy by 2021, but this failed to materialize (Cogger & Park-Ross, 2023).
10. The discussion of IHP in this article, and in most of the literature cited, is located within the context of a market economy, where most property is privately owned, most development is funded and organized by private companies, and the powers of the state are circumscribed. These boundaries are not inherent or immutable. There are other policy options and ways of providing houses and developing cities. They would require far-reaching changes in the political-economic system, which this article does not consider.

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No potential conflict of interest was reported by the author(s).

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