



Affordable Housing: Florida's Achilles's Heel

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By
Florida Housing Coalition**

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Achilles was a strong warrior, but that one vulnerability in his heel... well, you know.

An Inadequate Supply of Affordable Housing is Florida's Achilles Heel



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Florida Needs an Adequate Supply of Housing that's Affordable:

- For a strong and healthy economy
- For employers to site their headquarters and open businesses
- For family stability- to prevent one missed paycheck or unexpected set-back to result in homelessness
- For the workforce, the elderly, and special needs populations to find an apartment
- For lower income and historically marginalized households to become homeowners

Quick Refresher:

How Affordable Housing is Produced.

- The public sector is legally required to ensure 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 create an environment for the private sector to produce affordable/workforce housing.
- Primary tools are **planning laws, financial subsidy**, and using **incentives/requirements**.

The Difference Between Market Rate and Affordable Housing

- Market rate housing is priced at whatever the market will bear- what a willing buyer pays a willing seller; what a willing renter pays a willing landlord
- When affordable housing financing is used in the development of rental housing, it becomes affordable because of the restrictions tied to the funding (LIHTC, bonds, SAIL, for example)
- When affordable housing financing is used to bring down the cost of homeownership it typically is provided to the homebuyer and restrictions are tied to the funding (Down payment and closing cost assistance, from SHIP, for example) Developer can also get funding.

Tools for Increasing the Supply of Housing that's affordable

1. Money \$\$\$\$\$

2. Community Land Trusts and Surplus Lands Law

3. Regulatory Reform

incentives and requirements; land value creation and land value capture; HB 1339
zoning and land use override; long term assurances of affordability

4. Overcoming NIMBYism



Affordable Housing Funding Sources

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A Few Examples of Money \$\$\$\$\$

- Low Income Housing Tax Credits– how does that involve you?
- Local Government Area of Opportunity– you get to choose
- SAIL – developers will ask for local contribution
- SHIP and now Septic to Sewer and Resilience Funding
- Federal Funds- once in lifetime opportunities right now with ARAP and other funds- 75% need to be expended by Oct '22.
- Local Government General Revenue – Hillsborough and others
- Infrastructure Surtax – Penny for Pinellas

State Housing Incentive Partnership (SHIP)

- Every county in the state- population based formula
- Minimum of \$350k for counties with small populations
- Established in 1992- doc stamp. Since 2002, Legislature has been taking your SHIP funds – so much so.....
- With 50% permanent sweep in 2021 (sb 2512) local governments are getting more money than they have in 13 years

Considerations for Wastewater and Resiliency Programs

25% of Sadowski Funds were diverted to Wastewater Grant Program:

- When considering local septic-to-sewer or septic-enhancing projects, prioritize projects with an affordable housing component.
- Local government can condition the benefit from these state dollars on a % of required affordable housing.
- Ex. John Doe County can negotiate with a developer to devote 20% of its units for affordable housing in exchange for \$2 million worth of sewer improvements

25% of Sadowski Funds were diverted to Resilient Florida Grant Program:

- Study and plan for sea level rise impacts on affordable housing within your jurisdiction.
- Consider hardening affordable developments with public dollars.

Using American Rescue Plan Funds for Housing

Treasury guidance **expressly allows** Local Fiscal Recovery Funds to be used for affordable housing initiatives including:

- Rent and mortgage assistance
- Home repair
- Development of affordable housing to increase supply of affordable and high-quality living units
- Housing vouchers and assistance relocating persons to neighborhoods with higher levels of economic opportunity and to reduce concentrated areas of low economic opportunity
- Supportive housing services to improve access to housing for individuals who are homeless

What is a Community Land Trust?

- The vehicle of separating ownership of the land from the building
- Also, the nonprofit organization that holds title to the land, sells housing on the land, and administers a 99 year ground lease
- Removing the cost of the land makes the housing more affordable



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A CLT is an Alternative to Renting

- Rental housing supply is inadequate
- Renters lose stability when rents go up and they are forced to move, inability to plan and to save
- CLT homeownership is not an alternative to fee simple homeownership- for those who can afford the price that includes the land, fee simple is the better choice for wealth building
- CLT homeownership is better for wealth building than renting

How a CLT can benefit your local government

- Reduces need for subsidy over time by creating permanent affordability
- Increases household wealth by moving renters into homeownership
- Stabilizes neighborhoods, preservation of historic/culture
- Ideal way to transform county owned properties into productive use
- Approved SHIP CLT model language by Florida Housing Finance Corporation (FHFC)

Benefits of CLT Homeownership: For the Individual Household

- Price of home is more affordable and make homeownership attainable for lower-income families
- Return of equity upon resale (3 types of resale formulas)
- Mortgage payments instead of rent payments
- Homestead exemption
- A nonprofit is providing stewardship to help CLT homeowners to be successful (extremely low foreclosure rate)

Example: CLT of Palm Beach County

- Created by Palm Beach County in 2006 as a separate 501(c)(3)
- 62 Resale Restricted Single-Family Homes and Townhomes
- 80 Multi-Family Affordable Rental Units
- 24 Single Family and Townhomes in process/pipeline
- Main revenue sources: Government and corporate grants, developer and property management fees





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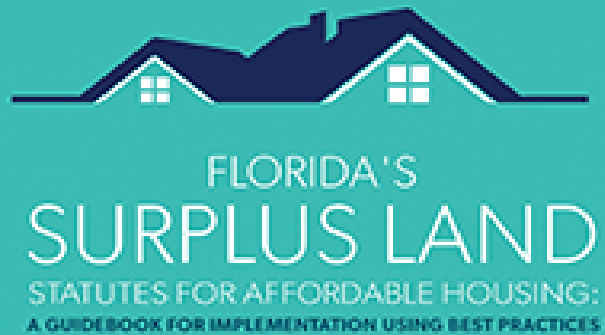


Surplus Lands Law

- Great way to support a Community Land Trust
- Adopted in 2006 as part of a broader housing bill designed to stimulate the construction of affordable housing
- Fla. Stat. §§ 125.379 requires an inventory of government owned lands “appropriate for use as affordable housing”
- Appropriate is not defined; if it is appropriate for market-rate housing, it is appropriate for affordable housing
- The inventory list must include the address and legal description of each property, and indicate whether the property is vacant or improved
- Public hearing; adopt resolution with final inventory to the following:

Surplus Lands Law

1. Offer the properties for sale and use the sale proceeds to purchase land for affordable housing development;
2. Offer the properties for sale and use the sale proceeds to increase the local government fund earmarked for affordable housing;
3. Sell the properties with a restriction that requires the properties be developed for use as permanent affordable housing;
4. Donate the properties to a nonprofit housing organization for the construction of affordable housing; or
5. Otherwise make the properties available for use in the production and preservation of permanent affordable housing (§125.379(2), Fla. Stat.)



Surplus Lands Law

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Fee Waivers; Regulatory Reform

Another way to increase the supply of affordable housing.

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AHAC Incentives

- Expedited Permitting (required to implement)
- Fee Waivers
- Flexibility in densities
- Reservation of infrastructure capacity
- Accessory dwelling units
- Reduction of required parking/setbacks
- Flexible lot configurations
- Housing impact statement (required to implement)
- Modification of street requirements
- Inventory of surplus lands
- Support of mixed-use development, development near transit, and development near major employment centers
- **Beginning 2020, every AHAC must have one elected official**

Incentive example: Impact fee waivers

- Florida law allows local governments to waive impact fees for affordable units
- Since an impact fee waiver is a limited resource, **preserve the waiver for units that will be affordable long-term** and require that the impact fee waiver actually results in lower housing prices
- **Consider:** provide impact fee waivers only to nonprofit developers with a track record of providing long-term affordable housing.

Increasing density – as a bonus or by-right?

- Increasing density is one of the most valuable bargaining chips a local government has to offer
- Before increasing densities across the board as-of-right, **strongly consider** conditioning density increases on the provision of affordable housing

Require affordability in exchange for reducing the cost of development

- If a developer seeks public dollars for things like infrastructure improvements, this is an opportunity to require affordable housing in return
- For example, if a large-scale developer (100+ units) seeks public dollars for wastewater infrastructure, roads, or other infrastructure needs, condition the public support on the developer setting aside x% of units as affordable housing
- This voluntary, negotiated development process can ensure that public dollars support public goods in the form of affordable housing

Protecting the Public Interest: Regulatory Reform Done Right

- Regulatory Reform- (incentives) such as increased density, waiver of fees etc. for a mission-based nonprofit will reduce the cost of housing
- Regulatory reform incentives for a market rate developer will increase profit and not result in more affordable housing
- **Unless local government makes affordability a requirement in exchange for the incentives.**

Land Value Creation and Land Value Capture

- When local government uses its land use authority to increase the value of private property- by rezoning or increasing density, for example, you have used public authority to enrich private property owner
- This should be the time that you require affordable housing or payment in lieu to increase the supply of affordable housing.
- Alternatively, you could adopt an inclusionary housing policy that applies to large scale development or redevelopment.

You can't assume that savings will be passed to the household

- Housing prices are set at whatever the market will bear – unless you require affordability
- Some local governments have amended their zoning codes to make them more flexible, gave too much away as-of-right, and now cannot require affordability through the land development code- form based code without AH requirement
- Use a Land Use Restriction Agreement (LURA) to ensure that the subsidy/savings benefit the income eligible households.

Land Use Restriction Agreements

- Same/similar to a deed restriction
- Recorded in the public records
- Runs with the property- able to be picked up by title searches, resales will be subject to the terms of the LURA
- Addresses- percentage of the property that is to remain affordable (x number of units) and affordable to whom

Moderate, low, very low, extremely low- defined in FS 420.0004

- Term of Affordability– for ex. 50 years...to perpetuity.
- Specific Performance – otherwise they will just pay back the grant or value of incentive and sell the property market rate

HB 1339 Omnibus Housing Bill 2020

§ 125.01055(6), Fla. Stat. (2020)

Notwithstanding any other law or local ordinance or regulation to the contrary, the board of county [or city] commissioners may approve the development of housing that is affordable, as defined in s. 420.0004, on any parcel zoned for residential, commercial, or industrial use.

HB 1339

- Will need implementing LDR- providing guidance from Commission to planning staff. With this LDR you can increase the supply by
 - Expediting affordable development and avoiding NIMBYism that can occur at public hearing; helpful for missing middle housing & adaptive reuse of defunct commercial centers

Caveat:

- Would be harmful if misused to permit affordable housing where people should not live - near toxic uses, in food deserts, areas without adequate transit or infrastructure
- If used in commercial & industrial areas, may reduce available land for new employment/job growth

Avoid/Overcome NIMBYism

- Increase the supply of affordable housing by overcoming opposition that is not legitimate
- Florida Fair Housing Act in 760.26 provides cover to elected officials– it is unlawful to discriminate in land use decisions based on the financing of the development.
- If a market rate apartment complex would be approved, so must the affordable apartment complex

“Takeaways”

- Local government can increase the supply of housing by removing land costs through donating surplus lands, supporting a CLT, providing financing, fee waivers, and regulatory reform
- Ensure that you get affordable housing in exchange for increasing private property values.
- Use LURAs unless you are using a CLT (ground lease acts as the LURA) that address number of units, affordable to whom, long term affordability, and be enforceable through specific enforcement
- Make the most of state laws that permit inclusionary housing and make it unlawful to discriminate against affordable housing.

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**





AFFORDABLE HOUSING CATALYST PROGRAM

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Questions?



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Additional slides for Reference

25% of SHIP funds were diverted to Septic to Sewer Grant Program

Wastewater Grant Program ("Septic to Sewer Program") (\$616 million)

- Administered by the Department of Environmental Protection (DEP); created in 2020
- Provides funding to local governments for projects that:
 1. Retrofit existing septic systems to upgrade them to nutrient-reducing systems
 2. Construct, upgrade, or expand facilities to provide advanced waste treatment; or
 3. Connect onsite septic systems to central sewer
- Each grant requires 50% local match unless local government is within a rural area of opportunity
- This new grant program provides a great opportunity to fund wastewater infrastructure projects that serve affordable housing developments

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25% of SHIP funds were diverted to Resilient Florida Grant Program

Resilient Florida Grant Program (\$616 million)

- Administered by Department of Environmental Protection; created in 2021
- DEP may provide grants to cities and counties to fund plans & projects that address flooding and sea level rise
- Funded activities will include:
 1. Comprehensive plan amendments that address the requirements of the Peril of Flood law
 2. Vulnerability assessments that identify or address risks of flooding and sea level rise
 3. Development of projects, plans, and policies that allow communities to prepare for threats from flooding and sea level rise
 4. Projects to adapt **critical assets** to the effects of flooding and sea level rise
 - "Critical assets" include "affordable public housing". (not a real term)
- **Local governments can use these funds to adapt “affordable public housing” to the effects of flooding and sea level rise.**

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American Rescue Plan Funds Available for Housing

State and Local Fiscal Recovery Funds

- Each local government in this region will receive Coronavirus State and Local Fiscal Recovery Funds from the U.S. Treasury Department
- Funds intended to support COVID-19 response efforts, replace lost revenue for state and local governments, support economic stabilization for households and businesses
- Broad eligible uses (must be spent by 2024):
 1. Public health expenditures
 2. Address negative economic impacts caused by the pandemic, **including assistance to households, small businesses, and nonprofits, or aid to impacted industries** such as tourism, hospitality, and travel
 3. Replace lost public sector revenue
 4. Provide premium pay to essential workers
 5. Invest in water, sewer, and broadband infrastructure