

Home Run for Homes

Celebrating the Success of San Diego's
Affordable Homes Bonus Program



April 2022

Acknowledgments

Jesse O'Sullivan, Primary Author

Policy Counsel, Circulate San Diego



Jesse is policy counsel for Circulate San Diego, where he researches and advocates for land use and transportation policy solutions for a more affordable and sustainable San Diego.

Prior to working at Circulate, Jesse practiced law for over a year as a litigator on a variety of matters. He also externed for the Honorable M. Margaret McKeown for the Ninth Circuit Court of Appeals, and for the Honorable Gonzalo P. Curiel for the Southern District of California. He graduated from the University of San Diego with a Bachelor's degree in sociology, and earned his Juris Doctor at the University of San Diego School of Law. During law school, Jesse was a member of the San Diego Law Review and his comment, Increasing the Effectiveness of California's Density Bonus Law, was published in The Real Estate Law Journal.

Colin Parent, Author and Editor

Executive Director and General Counsel, Circulate San Diego



Colin Parent is Executive Director and General Counsel at Circulate San Diego. He has authored a number of reports and academic publications detailing how local land use and transportation policy can be improved to advance equity, promote economic development, and to address climate change.

Colin served on the Jerry Brown for Governor 2010 campaign, and was appointed by Governor Brown as the Director of External Affairs for the California Department of Housing and Community Development. Prior to working for Governor Brown, Colin practiced law for three years as a commercial litigator at DLA Piper US LLP. During 2013-2014, Colin served as the Director of Policy at the San Diego Housing Commission. He is also an elected member of the City Council of La Mesa, California.

About Circulate San Diego

Circulate San Diego is a nonprofit whose mission is to create excellent mobility choices and vibrant, healthy neighborhoods. Circulate promotes public transit, safe streets, and sustainable growth. Circulate has successfully led campaigns to transform empty parking lots into affordable homes, to implement free transfers for transit riders, and for local jurisdictions to adopt Vision Zero to end traffic fatalities and serious injuries.



Special Thanks

Special thanks go to Abundant Housing LA for bringing us the first version of our dataset. Thanks also to the City of San Diego Planning and Development Services Departments for their help explaining and cleaning the data. Thanks to our working group, who helped guide the direction of the report. Working group members include David Allen, Michael Lane, Morgan Roth, Jeanette Temple, Kyle Ryan, Laura Nunn, Marissa Tucker-Borquez, Jenny van der Heyde, Seth Litchney, Mat Vasilakis, Mott Smith, Muhammad Alameldin, Anjali Kolachalam, Mike Kingsella, Matt Adams, Jenny Schuetz, Brent Schertzer, Dave Gatzke, Ginger Hitzke, and Jim Schmid. Original illustrations, including the cover image, were commissioned from Alfred Twu.

Sponsors

We are grateful for the financial support from our sponsors.



Table of Contents

Executive Summary	4
Introduction	6
Benefits of the AHBP	8
Affordable Homes Bonus Program Summary	12
Methodology	13
The Data	14
Inferences from the Data	17
AHBP History	19
Implications for Statewide and City-Wide Housing Policy	20
Recommendations	22
Conclusion	25
Project Profile: Stella and Bluewater	26
Project Profile: North Park Seniors	27
Resident Profile	28

Executive Summary

The City of San Diego enacted its Affordable Homes Bonus Program (AHBP) in 2016, which substantially increased the production of both market-rate and deed-restricted affordable homes.

The AHBP builds upon California Density Bonus Law, and allows developers to build more homes if they agree to dedicate a portion of a new multi-family project as affordable.

By the numbers, the AHBP gave a serious boost to the production of both market-rate and deed-restricted affordable homes in the City of San Diego.

- 44 percent of homes entitled in 2020 were in developments that used the AHBP.
- Since the program began in 2016, the AHBP was used in projects creating 6,481 homes.
- Between 2016 and 2020, the AHBP was used to create 463 deed-restricted affordable homes in mixed-income projects, financed primarily without relying on public subsidy.

When the AHBP was created in 2016, California's Density Bonus Law allowed residential developers to build 35 percent more homes than allowed by base zoning, if they set aside up to 11 percent of the base zoning as affordable to very low-income households.

The AHBP expanded on the existing Density Bonus Law by allowing up to a 50 percent bonus, if a developer agreed to dedicate up to 15 percent of the base zoning as affordable to very low-income households.

San Diego's AHBP was so successful that in 2020, Governor Gavin Newsom signed AB 2345, authored by Assemblymember Lorena Gonzalez, to expand the AHBP statewide. AB 2345 was the most consequential housing production bill signed by Governor Newsom in 2020.

The success of the AHBP in the City of San Diego suggests three key takeaways for policymakers:

- The State Legislature should continue to update and enhance California Density Bonus Law, and increase subsidies for affordable homes.

- Local governments should faithfully implement Density Bonus Law, and continue to innovate with their own local enhancements to that policy.
- The growth in AHBP use happened after San Diego eliminated parking minimums for many residential projects, so parking reforms efforts should continue without fear of undermining Density Bonus Law.

San Diego's success can continue to be a template for State and local density bonus policies, to generate even more housing production.

Illustration by Alfred Twu

No Bonus



No Affordable Units

100 Base Density Market Rate Units

100 Total Units

Old Density Bonus



35 Bonus Market Rate Units

11 Affordable Units

89 Base Density Market Rate Units

135 Total Units

AB2345 Density Bonus



50 Bonus Market Rate Units

15 Affordable Units

85 Base Density Market Rate Units

150 Total Units

California has an acute housing shortage, and has one of the highest poverty rates in the United States.

Introduction

Despite efforts at the State and local levels, the housing crisis has deepened in the last few years. California has an acute housing shortage, and has one of the highest poverty rates in the United States when taking into account high housing costs.¹

San Diego is not immune to the broader trends in California. Zillow's Home Value Index estimates that the City of San Diego's typical home price increased 38% from December 2019 to December 2021, to \$891,742.² In July 2012, the number was \$388,000.³ In 2021, rents in the San Diego metro area surged by 29%, to \$2,970.⁴ As of 2017, more than half of San Diego renters were rent-burdened, meaning they spent more than 30 percent of their income on rent.⁵ Home ownership remains out of reach to the majority of San Diegans, and San Diegans increasingly struggle to pay the rent.⁶

The City of San Diego's Affordable Homes Bonus Program (AHBP),⁷ is one of the efforts by the City to address the housing crisis. The program was adopted by the City Council in 2016,⁸ and was supported by a coalition led by Circulate San Diego.⁹

- 1 Patricia Malagon and Caroline Danielson, "California's High Housing Costs Increase Poverty," Public Policy Institute of California (August 13, 2021), available at <https://www.ppic.org/blog/californias-high-housing-costs-increase-poverty/>.
- 2 "San Diego Home Values," Zillow, <https://www.zillow.com/san-diego-ca/home-values/> (accessed February 4, 2022).
- 3 Id.
- 4 Jiayi Xu and Danielle Hale, "December Rental Data: Rents Surged by 10.1% in 2021," Realtor.com (January 26, 2022), available at <https://www.realtor.com/research/december-2021-rent/>.
- 5 Jill Castellano, "More Than Half of San Diego County Renters are Burdened by Housing Costs," KPBS (January 3, 2019), available at <https://www.kpbs.org/news/2019/jan/03/more-half-san-diego-county-renters-are-burdened-ho/>.
- 6 For additional information on California's housing crisis, see Jesse O'Sullivan, "Increasing the effectiveness of California's Density Bonus Law," *The Real Estate Law Journal* vol. 47, no. 4 (Spring 2019) p. 390–406.
- 7 Over the last few years, the San Diego Municipal Code has had several names for San Diego's enhancements to California Density Bonus Law. Currently they are in a code section captioned as "Affordable Housing Regulations," which is confusing in that it captures only a subset of the City's policies related to affordable housing. This report continues Circulate's past practice of referring to the enhancements to California Density Bonus Law as the "Affordable Homes Bonus Program," for ease of distinction.
- 8 San Diego Mun. Code § 143.0710, available at <http://docs.sandiego.gov/municode/MuniCodeChapter14/Ch14Art03Division07.pdf>.
- 9 Circulate San Diego, "Letter: Coalition of Supporters for Affordable Homes Bonus Program" (June 16, 2016), available at <http://www.circulatesd.org/affordablehomesbonus>.

The program built on the existing California Density Bonus Law, which provides incentives for developers that set aside some of their new homes as affordable for low-income households.¹⁰ This report follows previous reports from Circulate to track the successes of the AHBP, including its reports titled “Early Win,” “Good Bargain,” and “Equity and Climate for Homes.”¹¹

-
- 10 Cal. Gov. Code § 65915. For a useful primer on California Density Bonus Law, read Jon Goetz and Tom Sakai, Guide to the California Density Bonus Law (revised January 2022), available at https://www.meyersnave.com/wp-content/uploads/California-Density-Bonus-Law_2022.pdf.
- 11 Colin Parent, Early Win for Affordable Homes Bonus Program, Circulate San Diego (October 2017), available at <https://www.circulatesd.org/ahbpreport>; Colin Parent and Maya Rosas, Good Bargain: An Updated Evaluation of the City of San Diego’s Affordable Homes Bonus Program, Circulate San Diego (May 2020), available at <https://www.circulatesd.org/goodbargain>; Colin Parent and Maya Rosas, Equity and Climate for Homes: Geographical Analysis of the City of San Diego’s Affordable Homes Bonus Program, Circulate San Diego (July 2020), available at https://www.circulatesd.org/equity_and_climate_for_homes.

The Merian

Photo source: Holland Partner Group



Benefits of the AHBP

The AHBP contributed to the production of both market-rate and affordable homes, in a manner that creates benefits for equity and the climate. It has also created deed-restricted homes with little reliance on scarce public subsidies.

The AHBP is good for equity.

The burden of high housing cost falls disproportionately on low-income people and people of color. Black renters in San Diego are especially burdened, and spend an average of 53 percent of their income on rent.¹² Nationally, Black and Hispanic renters are disproportionately rent-burdened.

The AHBP seeks to address this issue by encouraging more construction of both market-rate and deed-restricted affordable homes. The availability of more market-rate homes decreases prices overall,¹³ and deed-restricted affordable homes directly benefit the low-income families who occupy them. Most market-rate developers using AHBP choose to include homes that are affordable at the very-low income level, creating deeply subsidized homes for those in greatest need.

In “Equity and Climate for Homes,” Circulate found that of AHBP projects entitled between August 2016 and April 2018, 63 percent were located in high resource census tracts in the City of San Diego.¹⁴ Affordable homes located in higher-resource census tracts give low-income residents the benefits of access to better jobs, schools, and neighborhood amenities. They also combat residential segregation, and support San Diego’s obligations to affirmatively further fair housing.¹⁵

Affordable homes located in higher-resource census tracts give low-income residents the benefits of access to better jobs, schools, and neighborhood amenities.

12 Zillow Research, “Where the Rent Burden is Most Unequal Across Racial Communities,” Zillow (October 12, 2021), available at <https://www.zillow.com/research/rent-affordability-by-race-2021-30207/>.

13 Housing Development Toolkit, The White House (September 2016) p. 2, available at https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/images/Housing_Development_Toolkit%20f.2.pdf.

14 Colin Parent and Maya Rosas, Equity and Climate for Homes: Geographical Analysis of the City of San Diego’s Affordable Homes Bonus Program, Circulate San Diego (July 2020) p. 11, available at <https://www.circulatesd.org/equityandclimateforhomes>.

15 Affirmatively Furthering Fair Housing, Guidance for All Public Entities and for Housing Elements, California Department of Housing and Community Development (April 2021), available at https://www.hcd.ca.gov/community-development/affh/docs/AFFH_Document_Final_4-27-2021.pdf.

Compact land uses are more compatible with transit, bicycling, and walking.

The AHBP is good for the climate.

In “Equity and Climate for Homes,” Circulate found that between August 2016 and April 2018, 97 percent of AHBP projects were located within a half-mile of a high performing transit stop.¹⁶ Those projects offered residents the opportunity to rely less on a car, and to make climate friendly transportation choices. Residents of affordable homes are more likely to use transit than residents of market-rate homes.¹⁷ Locating affordable homes near transit allows transit ridership to increase.

Compact land uses are more compatible with transit, bicycling, and walking. More walkable neighborhoods reduce travel times for non-car modes of travel because people can live closer to where they work, shop, and play. Locating more homes near transit also makes transit systems more efficient, moving more people per transit vehicle. With transportation emissions accounting for almost 40 percent of California greenhouse gas emissions, it is critical that cities are built to accommodate low-carbon modes of transportation.¹⁸

The AHBP is a good bargain.

As described in the data section below, the AHBP produced 462 affordable homes in mixed-income developments since 2016. With the cost to construct a subsidized affordable apartment averaging roughly \$500,000 in California,¹⁹ that represents a value of \$230 million, achieved primarily without relying on public subsidies.²⁰

In “Good Bargain,” Circulate found that in the first 20 months of the AHBP, there was a 490 percent increase in the number of projects applying to use the program, compared to the predecessor California Density Bonus Law. The AHBP also saw a 551 percent increase in the number of deed-restricted affordable homes entitled through the program, and a 356 percent increase for combined entitlements of affordable and market-rate homes.²¹

16 Colin Parent and Maya Rosas, Equity and Climate for Homes: Geographical Analysis of the City of San Diego’s Affordable Homes Bonus Program, Circulate San Diego (July 2020) pp. 6, 11, available at <https://www.circulatesd.org/equityandclimateforhomes>.

17 Why Creating and Preserving Affordable Homes Near Transit is a Highly Effective Climate Protection Strategy, TransForm and the California Housing Partnership Corporation (May 2014) p. 11, available at <https://www.transformca.org/transform-report/why-creating-and-preserving-affordable-homes-near-transit-highly-effective-climate>.

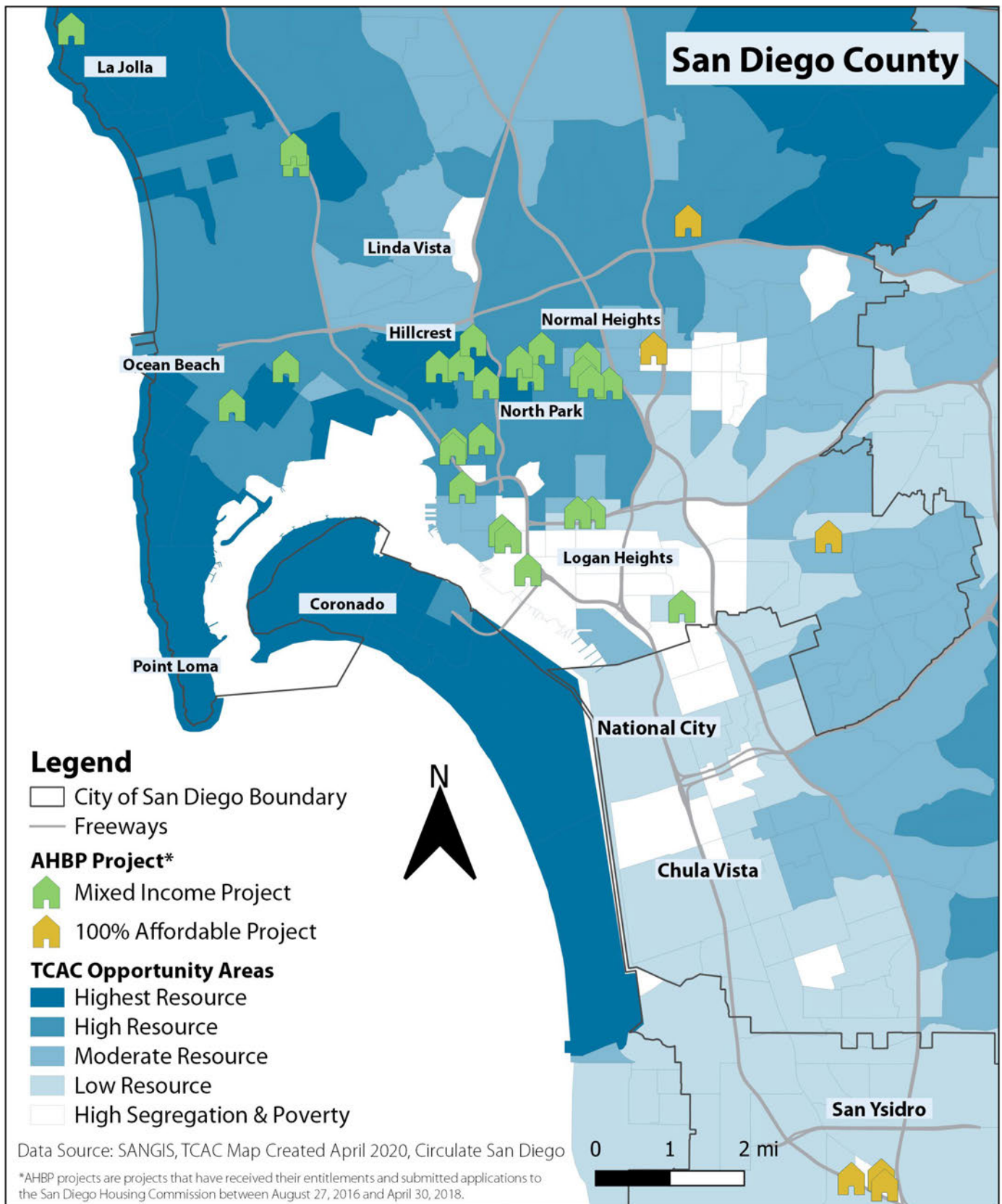
18 California Greenhouse Gas Emissions from 2000 to 2019, California Air Resources Board (July 28, 2021) p. 6, available at https://ww2.arb.ca.gov/sites/default/files/classic/cc/ca_ghg_inventory_trends_2000-2019.pdf.

19 Liam Dillon, Ben Poston, Julia Barajas, “Affordable Housing Can Cost \$1 Million in California. Coronavirus Could Make it Worse,” Los Angeles Times (April 21, 2020), available at <https://www.latimes.com/homeless-housing/story/2020-04-09/california-low-income-housing-expensive-apartment-coronavirus>.

20 Developers sometimes pay reduced fees on density bonus projects, or utilize other public programs to offset costs. This is generally not the same kind of support used as gap financing to fund subsidized 100 percent affordable housing.

21 Colin Parent and Maya Rosas, Good Bargain: An Updated Evaluation of the City of San Diego’s Affordable Homes Bonus Program, Circulate San Diego (May 2020) p.3, available at <https://www.circulatesd.org/goodbargain>. (Analysis from August 2016 through April 2018.)

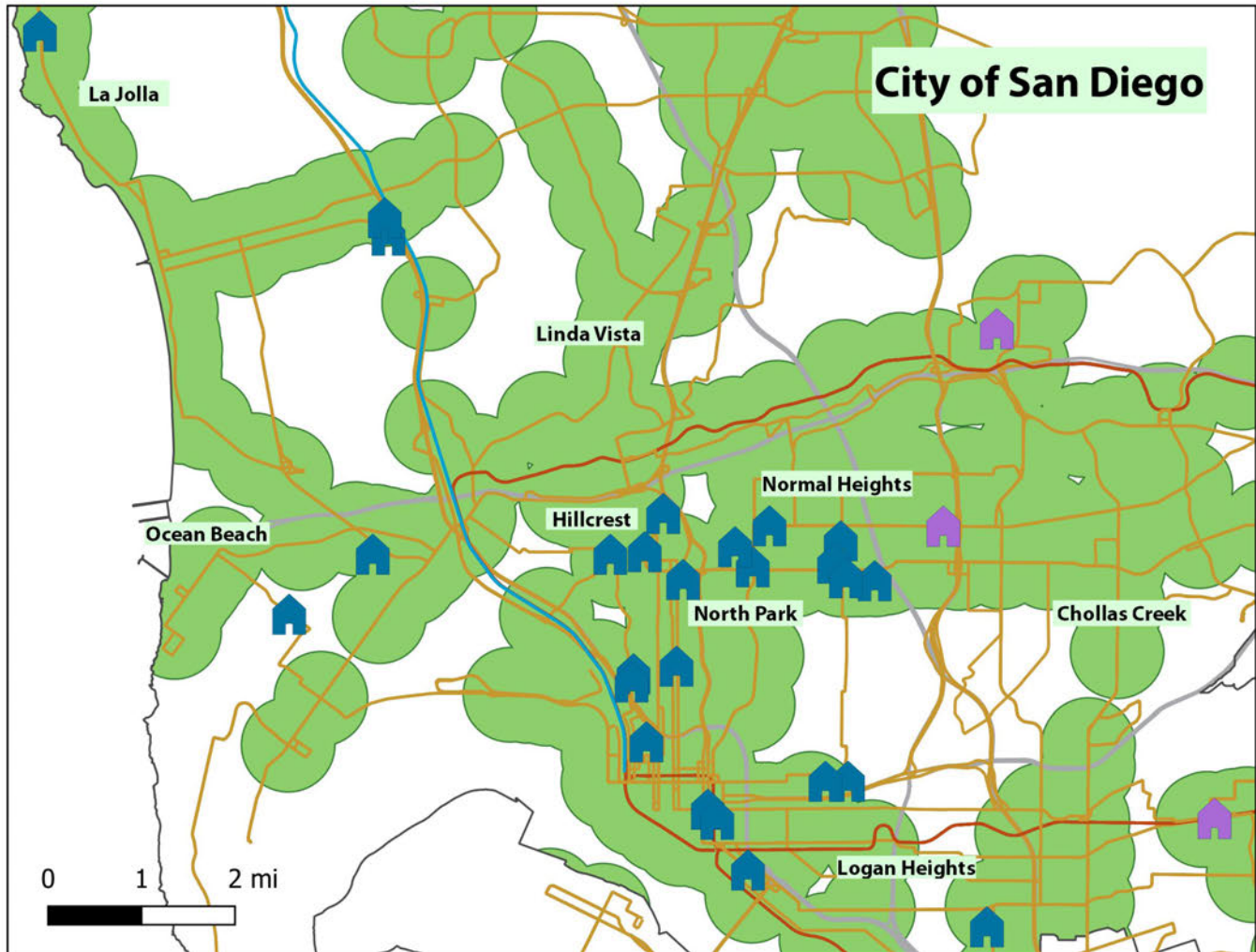
Affordable Homes Bonus Program Projects in California Tax Credit Allocation Committee (TCAC) Opportunity Areas, 2019



Map of Affordable Homes Production in TCAC Opportunity Areas from "Equity and Climate for Homes."

Photo source: Circulate San Diego

Affordable Homes Bonus Program Projects in Transit Priority Areas, 2019



Legend

- Trolley
- Rail
- Bus
- City of San Diego Boundary
- Freeways
- Transit Priority Areas

AHBP Projects*

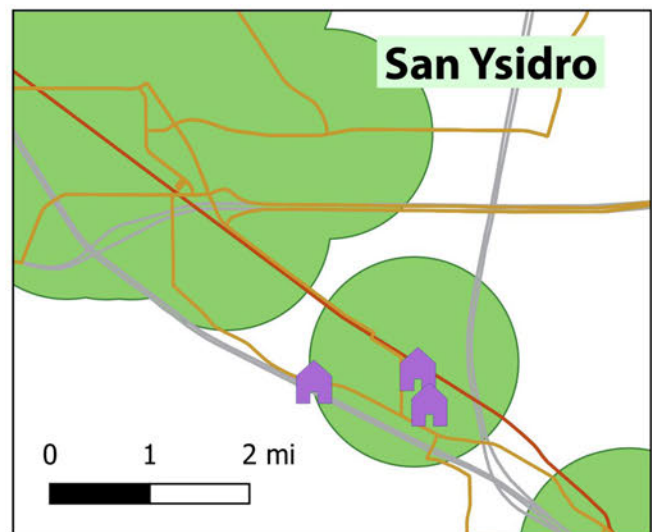
- 🏠 Mixed Income Project
- 🏠 100% Affordable Project

Data Source: SANGIS. Map Created April 2020, Circulate San Diego

*AHBP projects are projects that have received their entitlements and submitted applications to the San Diego Housing Commission between August 27, 2016 and April 30, 2018.

Map of Affordable Homes Production in Transit Priority Areas from "Equity and Climate for Homes."

Photo source: Circulate San Diego



San Diego's AHBP went above and beyond California Density Bonus Law and offered developers the ability to build up to 50 percent more units than the underlying zoning would allow.

Affordable Homes Bonus Program Summary

Prior to 2020, California Density Bonus Law allowed developers to receive up to a 35 percent bonus if they set aside up to 11 percent of their base density units as affordable.²² San Diego's AHBP went above and beyond California Density Bonus Law and offered developers the ability to build up to 50 percent more units than the underlying zoning would allow.²³ In exchange, the developer is required to set aside a certain percentage of units as affordable to very-low income, low income, or moderate income residents.²⁴

In nearly all cases, mixed-income developers choose to deed-restrict their affordable units at very-low income.²⁵ They can receive the full 50 percent bonus when they set aside up to 15 percent of their units at that level. In addition, the developer can receive up to five incentives, which may include deviations from local development restrictions.²⁶ California Density Bonus law also grants projects some relief from local parking requirements.²⁷

22 California Government Code Section 65915, available at https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65915&lawCode=GOV.

23 San Diego Mun. Code § 143.0710 et seq., available at <https://docs.sandiego.gov/municode/MuniCodeChapter14/Ch14Art03Division07.pdf>.

24 San Diego Mun. Code § 143.0710 et seq., available at <https://docs.sandiego.gov/municode/MuniCodeChapter14/Ch14Art03Division07.pdf>.

25 Very-low income units are the most expensive for a project, because they forgo the most amount of rent as compared with a market-rate unit. Both Density Bonus Law and the AHBP take that into account, and require fewer units to be deed-restricted when they are more deeply affordable. So for most projects, providing fewer deeply affordable homes is the most advantageous to a market-rate developer's pro forma.

26 San Diego Mun. Code § 143.0740, available at <https://docs.sandiego.gov/municode/MuniCodeChapter14/Ch14Art03Division07.pdf>.

27 San Diego Mun. Code § 143.0740, available at <https://docs.sandiego.gov/municode/MuniCodeChapter14/Ch14Art03Division07.pdf>.

Methodology

This report relies on data from the City of San Diego's Housing Element Annual Reports, which the City is required to file with the California Department of Housing and Community Development as part of its Housing Element obligations.²⁸ Individual project data was taken from those reports and placed into a spreadsheet, available as Appendix A.²⁹ The Annual Report contains information including whether a project used a density bonus, the number of market-rate units contained in a project, and the number of affordable units contained in a project. Unfortunately, Annual Report data does not track how many bonus units were granted, what level of density bonus was earned, or what incentives were utilized on a project.

Data contained in the Annual Reports contained several inconsistencies and errors. Circulate San Diego corrected the errors where possible, and detailed those in Appendix B.³⁰

Mid-City Affordable Apartments

Photo source: Chelsea Investment Corporation

28 San Diego Housing Element Annual Reports are available on the City's website at <https://www.sandiego.gov/planning/programs/genplan/documents>.

29 Appendix A, available at <http://www.circulatesd.org/homerunforhomes>.

30 A summary of issues with the Annual Report data is available in Appendix B, available at <http://www.circulatesd.org/homerunforhomes>.



Since 2016, San Diego entitled 462 affordable homes in mixed-income developments using the AHBP.

The Data

The data shows an enormous growth in AHBP usage. In 2020, San Diego entitled 6,482 homes, 2,858 of which were located within AHBP projects. These numbers show that in 2020, 44 percent of all homes entitled in the City of San Diego used the AHBP. By comparison, in 2016 San Diego entitled 7,384 homes, and only 145 were located within AHBP projects. In 2016 AHBP projects made up just 2 percent of the total. Overall housing entitlements have trended upward since 2016, though they have varied significantly from year to year.

In 2016, eight AHBP projects generated 15 affordable homes and 130 market-rate homes. In 2020, 29 AHBP projects generated 1,210 affordable homes and 1,648 market-rate homes.

Use of the AHBP has grown for both mixed-income and 100 percent affordable projects.³¹ Since 2016, San Diego entitled 462 affordable homes in mixed-income developments using of the AHBP. Of that number, 167 (36 percent) were entitled in 2020, a testament to the growing impact of the program.

There has also been an increase in 100 percent affordable projects. Since 2016, San Diego entitled 1,381 affordable homes in 100 percent affordable projects that used the AHBP. Of that number, 1,043 (76 percent) were entitled in 2020.

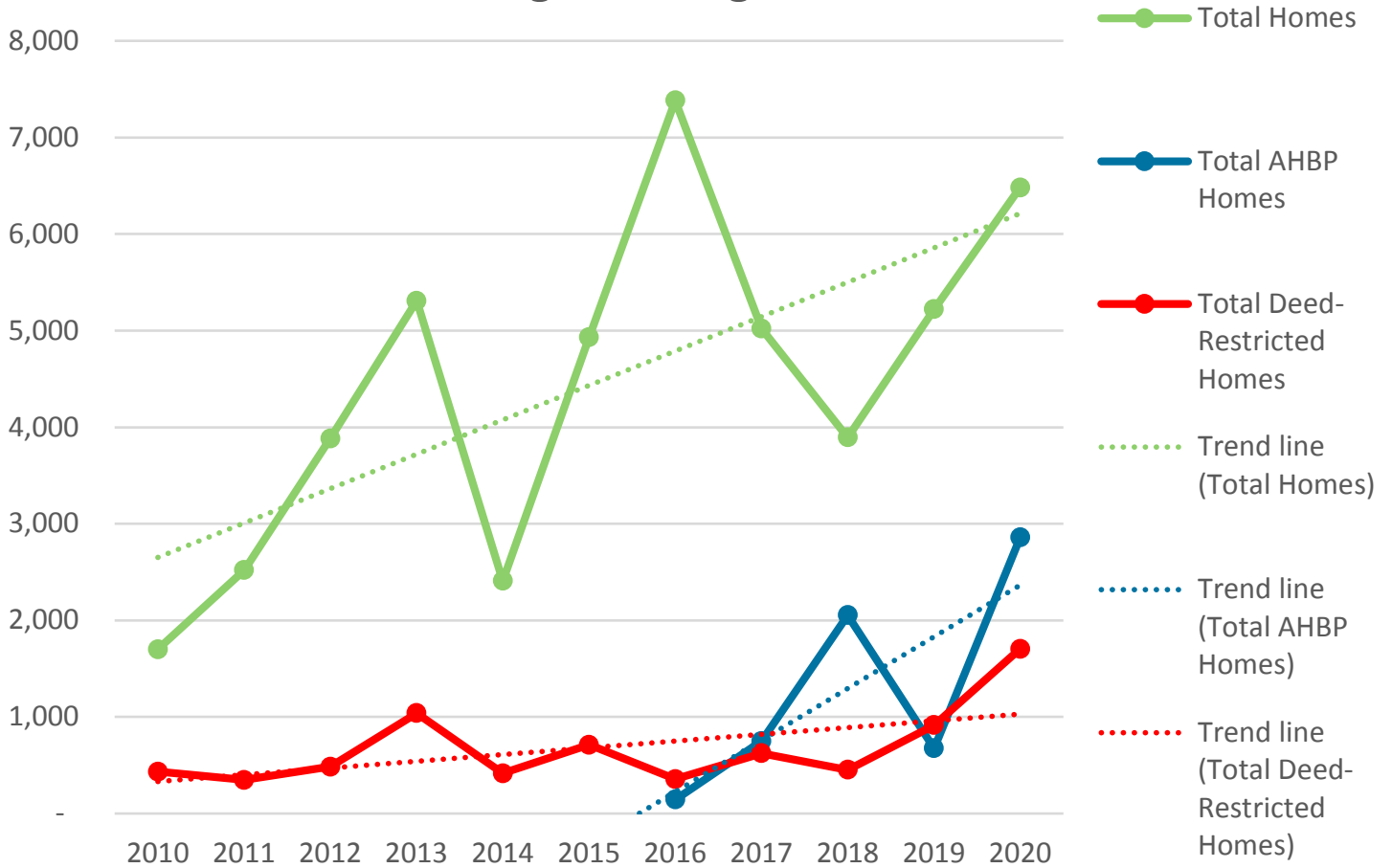
Since 2019, a large majority of 100 percent affordable projects have used the AHBP. Because 100 percent of the homes in these projects are already affordable, the AHBP is automatically available to those projects. The AHBP benefits these projects by allowing them to construct more homes than the underlying zoning would allow, while allowing fixed costs like land prices to be spread over more units.

AHBP projects come in a variety of sizes, from as small as seven homes to more than 400 homes. Mixed income projects are particularly diverse, with 30 percent of projects containing 15 homes or less, and 17 percent of projects containing 100 homes or more. 100 percent affordable projects tended to be larger in size, which is consistent with affordable projects sizes throughout California.³²

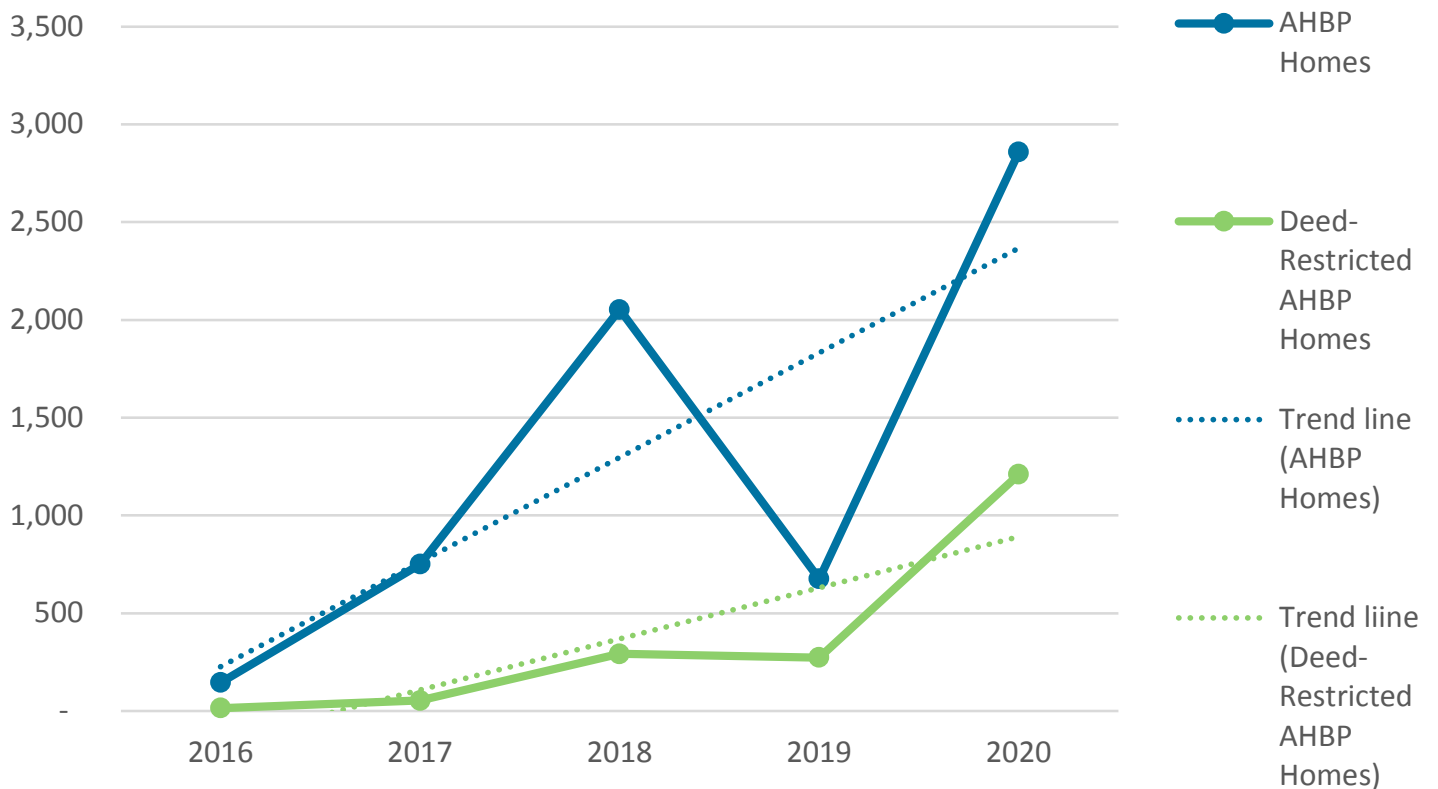
31 100 percent affordable projects sometimes include a small number of managers' units, which are considered market-rate units.

32 Affordable Housing for California: 2020 Annual Report, California Tax Credit Allocation Committee (April 2021), available at <https://www.treasurer.ca.gov/ctcac/2020/annualreport/2020-TCAC.pdf>, page 16 (average project size for 2020 was 94 affordable units per project).

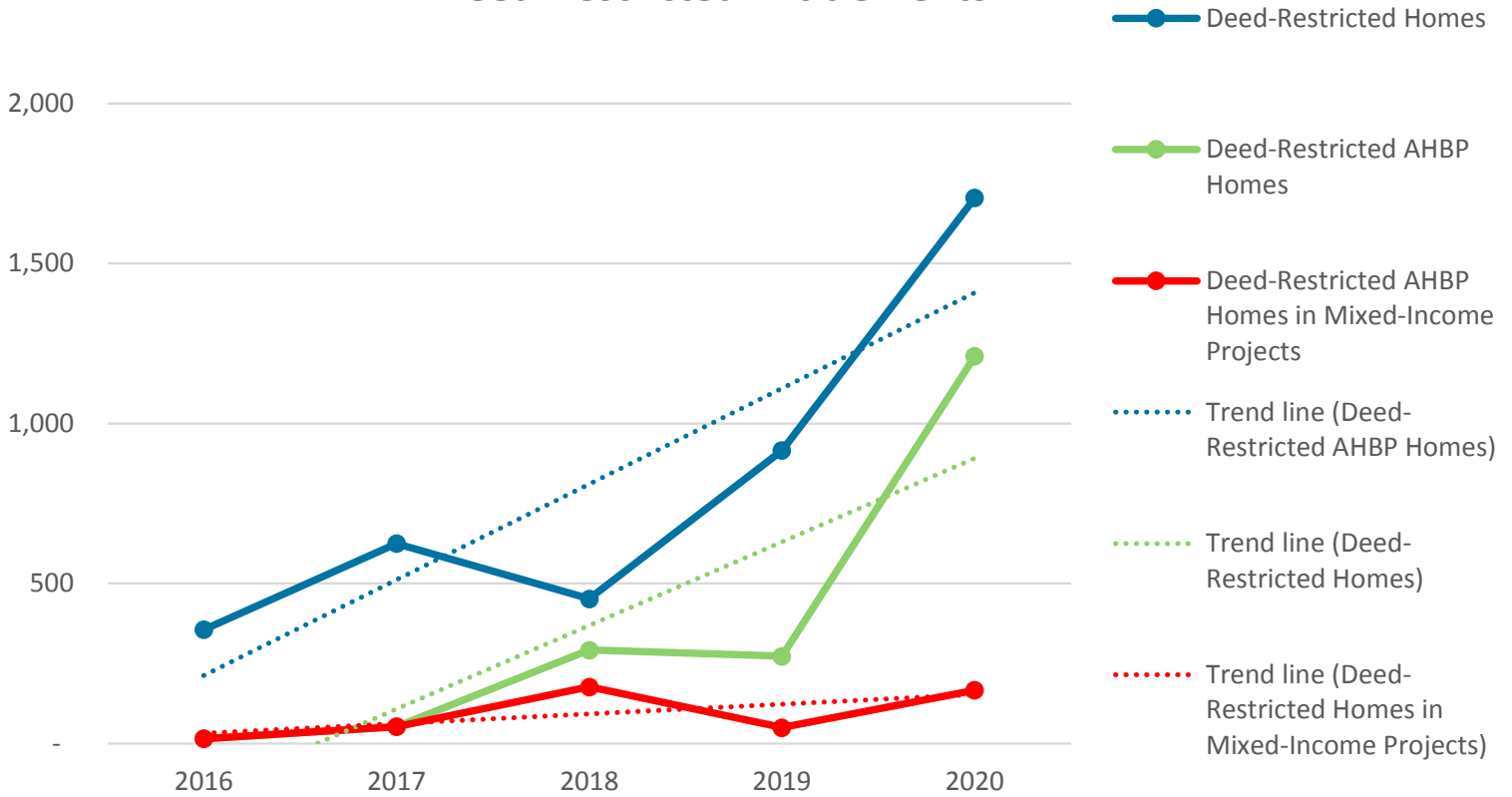
San Diego Housing Entitlements



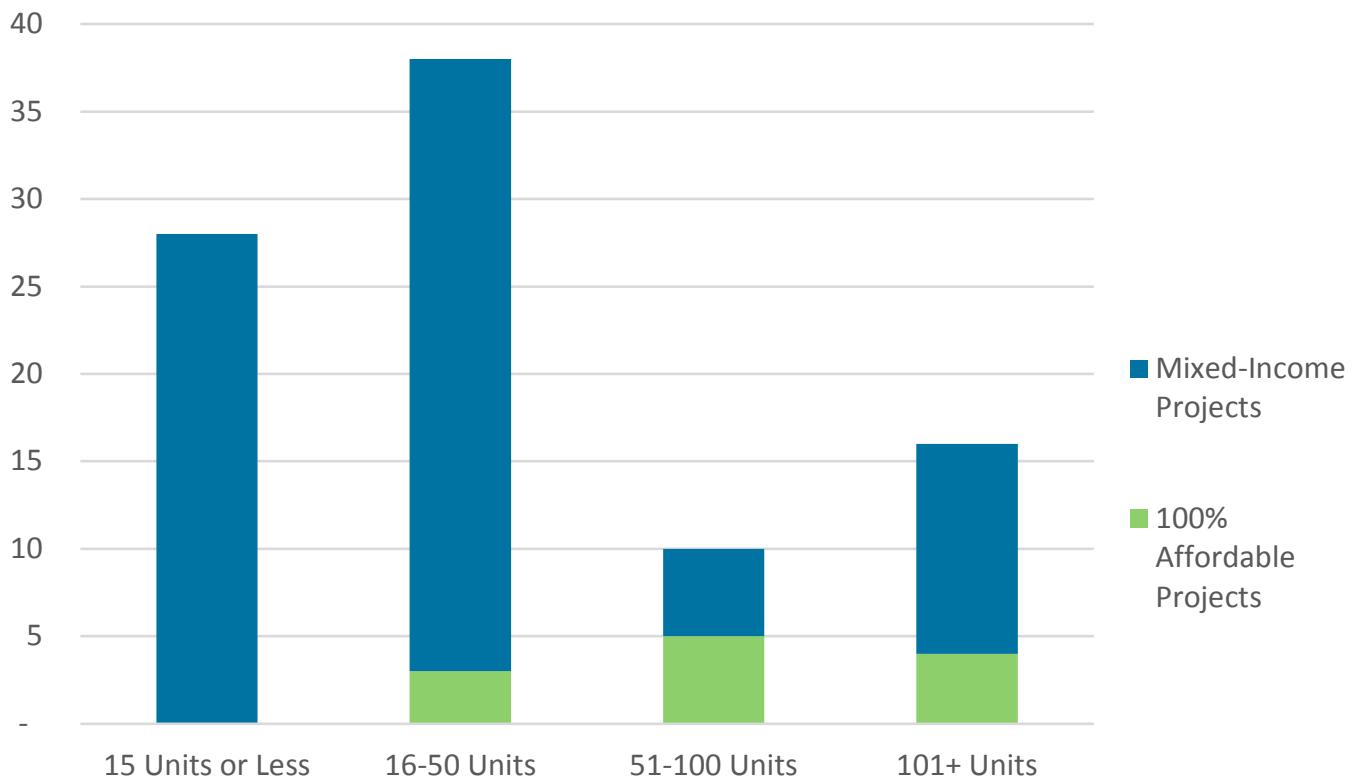
AHBP Production



Deed-Restricted Entitlements



AHBP Project Size 2016-2020



Inferences From the Data

The acceleration of usage for the AHBP is likely a result of increased familiarity with the program by developers and City staff.

AHBP usage has become widespread, and has been dramatically successful in creating affordable homes. The 462 affordable homes built in mixed-income developments would not have been constructed if not for the AHBP. Unfortunately, Circulate was unable to determine how many of the 1,381 affordable homes built in 100% affordable projects under the AHBP were bonus units, or how much benefit those projects received from incentives. However, it is likely that these benefits were significant.

Circulate was also unable to determine the number of bonus units constructed (market-rate homes that could not have been built without the density bonus). This is because the Housing Element report does not contain information about the base density where these projects were built, and not all AHBP projects use the full 50 percent bonus. These bonus units, while not deed-restricted affordable homes, increase San Diego's housing supply and apply downward pressure on prices. The number of bonus units is likely much higher than the 462 affordable homes produced in mixed-income density bonus projects.

The acceleration of usage for the AHBP is likely a result of increased familiarity with the program by developers and City staff. In addition, projects that were already in the entitlement pipeline prior to 2016 may not have used the AHBP because they were too far along in the process.

The success of the AHBP is also a result of San Diego fostering a strong "culture of yes" by both City staff and its elected officials. This culture encourages an expansive view of how a developer can use an incentive, and minimizes the need for discretionary approval processes. Many AHBP projects can be entitled without ever going to a public hearing because they are compliant with the community plan and zoning rules, and only seek deviations that are available by-right through the AHBP. This gives developers the flexibility and certainty they need to bring AHBP projects forward.

The data showing an acceleration of AHBP production demonstrates that parking reform does not undermine the goals of California Density Bonus Law.³³ The City of San Diego eliminated parking minimums for residential projects near transit in 2019.³⁴ Some had

33 Jesse O'Sullivan, "Support for Assembly Bill 1401 – Parking Requirements," Circulate San Diego (July 15, 2021), available at https://www.circulatesd.org/letter_ab_1401_does_not_undermine_california_s_density_bonus_law.

34 Id.

suggested that eliminating parking minimums would decrease the use of California Density Bonus Law, because developers would no longer need to rely on that law's ability to receive relief from local parking minimums. The San Diego experience shows that those fears, while earnest, are unfounded.

Stella and Bluewater

Photo source: Affirmed Housing



An incremental approach to density bonus policy has been successful at both the City of San Diego and State level.

AHBP History

In general, an incremental approach to density bonus policy has been successful both at the City of San Diego and at the State level. San Diego incrementally improved the AHBP every year since it was passed.

In 2017, San Diego enacted an ordinance which streamlined processing of a variety of projects, including density bonus projects.³⁵ In 2018, a 100 percent density bonus was created for micro-unit projects that did not exceed height or setback requirements of the underlying zoning.³⁶ In 2019, the AHBP was again updated to allow an additional bonus for certain projects that did not exceed height or setback requirements.³⁷ Also in 2019, the City eliminated minimum parking requirements for multifamily residential uses near transit.³⁸ In 2020, the AHBP was updated to add a new moderate income density bonus stackable with other bonuses, for up to a combined 75 percent bonus.³⁹

The State Legislature has made similar incremental improvements to the density bonus in recent years. In 2015, California strengthened Density Bonus Law to preclude certain loopholes by local governments,⁴⁰ and provided expanded parking relief for projects that use the program.⁴¹ In 2020, California extended much of San Diego's density bonus enhancements statewide through AB 2345, allowing for up to a 50 percent density bonus and four incentives.⁴² The recent statewide and local improvements to density bonus policies suggest opportunities to build on this success and to make still more improvements.

35 San Diego City Ordinance No. O-20856 (Sept. 15, 2017), available at https://docs.sandiego.gov/council_reso_ordinance/rao2007/O-20856.pdf.

36 San Diego City Ordinance No. O-20916 (Mar. 22, 2018), available at https://docs.sandiego.gov/council_reso_ordinance/rao2018/O-20916.pdf.

37 San Diego City Ordinance No. O-21114 (Aug. 9, 2019), available at https://docs.sandiego.gov/council_reso_ordinance/rao2019/O-21114.pdf.

38 San Diego City Ordinance No. O-21057 (Mar. 25, 2019), available at <https://www.sandiego.gov/sites/default/files/o-21057.pdf>.

39 San Diego City Ordinance No. O-21222 (Jul. 30, 2020), available at <https://www.sandiego.gov/sites/default/files/O-21222.pdf>.

40 AB 2501 (2015) (Bloom), available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2501.

41 AB 744 (2015) (Chau), available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB744.

42 AB 2345 (2020) (Gonzalez), available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB2345.

Implications for Statewide and City-Wide Housing Policy

The AHBP is a programmatic policy that does not rely on one-off or parcel-by-parcel decisions. The City of San Diego has been a leader in this kind of city-wide policymaking. One of this report's co-authors previously argued that local policy reforms should be pursued city-wide, because they have the advantage of making a broad impact, and they create the right political economies to be successfully adopted.⁴³ Policy decisions related to a single neighborhood or a single parcel often attract fierce opposition. In contrast, city-wide policies tend to face less local opposition, and attract more support from influential regional players. The experience with the AHBP shows how structuring housing reforms as city-wide policies can lead to better housing outcomes.

Land use decisions made at higher level of governments are less influenced by neighborhood-level opponents to change.

California Density Bonus Law and AB 2345 are successful examples of this strategy being applied not just city-wide, but statewide. In general, land use decisions made at higher levels of governments are less influenced by neighborhood-level opponents to change.⁴⁴

It is also notable that the programmatic policy to allow projects to depart from underlying land use rules challenges the traditional model of planning itself. Planners are trained to prepare documents that prescribe what can be built, and where, often with different rules from parcel to parcel. With the AHBP, if a project includes affordable homes, is close to transit, and is zoned as multi-family, then bespoke restrictions meant to apply to a particular neighborhood or parcel can be disregarded.

The City of Los Angeles has a similar policy in its Transit Oriented Communities (TOC) program.⁴⁵ The TOC is similar to the AHBP by allowing projects that include affordable homes near transit to build more than underlying zoning would otherwise permit.

43 Colin Parent, "City-Wide: A Strategy for Sustainable Growth," California Western Law Review Vol. 55, No. 2 (July 2019), available at <https://scholarlycommons.law.cwsl.edu/cgi/viewcontent.cgi?article=1674&context=cwlr>.

44 David Schleicher and Roderick M. Hills, "A Not-So-Quiet Revolution in Land-Use Law? Scaling Up the Zoning Process," NYU Furman Center (March 2019), available at <https://furmancenter.org/research/iri/essay/a-not-so-quiet-revolution-in-land-use-law-scaling-up-the-zoning-process>.

45 City of Los Angeles, Department of Planning, Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines) (February 2016), available at <https://planning.lacity.org/odocument/39fae0ef-f41d-49cc-9bd2-4e7a2eb528dd/TOCGuidelines.pdf>.

In Los Angeles, the TOC accounted for 30 percent of pipeline homes in 2018,⁴⁶ and 42 percent in 2019,⁴⁷ though it declined as a share of total production in recent years.⁴⁸ In San Diego, 44 percent of homes entitled in 2020 used the AHBP. It is possible that in future years, city-wide programs like the AHBP and TOC will account for a majority of housing development in their jurisdictions. These city-wide policies may become so widely used that they stop being the exceptions to parcel-level planning and become the predominate mechanism that determines what can be built and where.

- 46 Transit-Oriented Communities: Los Angeles, University of California Berkeley Turner Center (April 2019) available at https://turnercenter.berkeley.edu/wp-content/uploads/2020/12/TOC_Los_Angeles.pdf (last visited April 13, 2022).
- 47 "Affordable Housing Production on the Rise," City of Los Angeles, Department of Planning (accessed March 25, 2022) available at <https://planning.lacity.org/blog/affordable-housing-production-rise>.
- 48 Annual Report 2021, City of Los Angeles, Department of Planning, available at https://planning.lacity.org/odocument/4d9f3c45-3b02-43b9-a85f-1729c7ae2c33/CityPlanning_AnnualReport2021.pdf (last visited April 13, 2022).

Illustration by Alfred Twu



Recommendations

The strategy of incremental improvements to density bonus yields results, and is a strategy that State and local governments should continue to follow. Based on past experiences, this report makes recommendations for the California Legislature and individual jurisdictions.

The California Legislature should continue to expand State Density Bonus Law.

The California Legislature should continue to expand State Density Bonus Law by allowing even more generous bonuses when developers build even more deed-restricted homes. This could be achieved by introducing an additional bonus for moderate-income homes that is available to developers after they max-out their contribution of very-low income homes. Enhancements could also include even larger market-rate bonuses or additional incentives for producing even more very-low income homes.

The State should increase subsidy funding for deed-restricted affordable homes.

The State should increase subsidy funding for deed-restricted affordable homes. Recent changes to State Density Bonus Law allow affordable housing developers to build even larger projects on scarce and expensive land. This increases the value that the State can receive per dollar spent on affordable housing. The density bonus and affordable housing financing programs can work together to increase the production of 100 percent affordable projects in California.

Local governments should implement Density Bonus law in good faith, and continue to innovate for local enhancements of the policy.

The Density Bonus Law is technically available to developers regardless of whether localities implement it in their municipal codes. However, creating local implementation policies give developers a clear path forward for using the density bonus.

Small jurisdictions should not be deterred from implementing the Density Bonus Law. Circulate's data shows that San Diego's AHBP is viable for projects that are both small (under 15 units) and medium size (under 50 units). The implementation of Density Bonus Law has a strong potential to generate housing, equity, and climate benefits even in suburban areas.

Local governments have an ability to go above and beyond the requirements of California Density Bonus Law.

Each jurisdiction in California has an obligation to affirmatively further fair housing opportunities in its Housing Element.⁴⁹ This means that cities must “tak[e] meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.”⁵⁰ Absent an inclusionary policy, new market-rate projects in high opportunity areas are generally unaffordable to low income households. Enacting a density bonus ordinance can encourage projects to include deed-restricted affordable homes where they would otherwise not be produced.⁵¹ Similarly, use of a density bonus can also help offset costs associated with complying with an inclusionary obligation.

Recently, the California Department of Housing and Community Development has taken a much stronger stance on Housing Element enforcement than it has in the past. Given this stronger stance, jurisdictions will face increased scrutiny to further housing production and fair housing.

With a good faith implementation of Density Bonus Law, housing projects are more certain and require less discretionary review. Projects using density bonus can receive extra development capacity, incentives, and parking relief. These benefits can all be awarded ministerially, without the long and uncertain process to determine discretionary benefits. Community input can be still be invited and encouraged when community plans are adopted and when municipal code changes are made, even if that input is not a part of subsequent one-off project decisions. By shortening a lengthy discretionary process, a development is able to shave months or years off of its timeline, saving the project money.

Local governments also have an ability go above and beyond the requirements of California Density Bonus Law. Localities should innovate and create additional incentive programs that offer additional development capacity in exchange for producing deed-restricted affordable homes. The City of San Diego’s AHBP is the paradigmatic example, which simply built upon the bonus tables already a part of California Density Bonus Law. Other examples include the Transit Oriented Communities program in the City of Los Angeles, which grants a variety of density bonuses in exchange for setting aside affordable homes.⁵² The City and County of San Francisco’s Home-SF program provides a

49 See Gov. Code § 8899.50(b)(1), available at https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=8899.50.

50 Zachary Olmstead, “AB 686 Summary of Requirements in Housing Element Law Government Code Section 8899.50, 65583(c)(5), 65583(c)(10), 65583.2(a)” Department of Housing and Community Development (April 23, 2020), available at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/ab686_summaryhousingelementfinal_04222020.pdf.

51 See Colin Parent and Maya Rosas, Equity and Climate for Homes: Geographical Analysis of the City of San Diego’s Affordable Homes Bonus Program, Circulate San Diego (July 2020), available at <https://www.circulatesd.org/equityandclimateforhomes>.

52 Los Angeles City Planning, Transit Oriented Communities Incentive Program, <https://planning.lacity.org/plans-policies/transit-oriented-communities-incentive-program> (accessed March 8, 2022).

comparable set of benefits.⁵³ Other innovations like housing overlay zones can be structured similarly, to allow more overall units if developers include affordable homes as a part of their proposals.⁵⁴

The California Legislature and local governments should pursue parking reform without the fear of undermining Density Bonus Law.

The California Legislature and local governments should move forward with parking reforms.

In 2021, California Assembly Bill 1401 proposed to eliminate parking minimums for most new developments near high performing transit. The bill did not make it out of the Legislature.⁵⁵ At the time, some affordable housing advocates raised concerns that the bill would undermine the use of the Density Bonus Law. The thought was that if developers did not have to use Density Bonus Law to avoid a local parking requirement, then they would be less inclined to include affordable units in their projects. Fortunately, San Diego offers a real-world experiment to test those fears. San Diego eliminated parking minimums for multi-family housing near transit in 2019.⁵⁶ Subsequently, San Diego saw a rapid expansion of density bonus usage. There is therefore little reason to believe that elimination of parking minimums in other jurisdictions, or statewide, will significantly reduce the use of density bonus policies.

Fortunately, a new bill to reform statewide parking rules, AB 2097, was introduced in 2022.⁵⁷ The California Legislature and local governments should move forward with parking reforms, without fear of undermining the production of affordable homes that Density Bonus Law is designed to accomplish.

53 Home-SF, San Francisco Planning, available at <https://sfplanning.org/home-sf> (accessed March 8 2022).

54 See Affordable Housing Overlay Zones: Oakley, University of California Berkeley Turner Center, (April 2019), available at https://turnercenter.berkeley.edu/wp-content/uploads/2020/10/Affordable_Housing_Overlay_Zones_Oakley.pdf.

55 AB 1401 (2021) (Friedman), available at https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=202120220AB1401 (Held under submission by Appropriations Committee).

56 San Diego City Ordinance No. O-21057 (March 25, 2019), available at <https://www.sandiego.gov/sites/default/files/o-21057.pdf>.

57 AB-2097 (2022) (Friedman), available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2097.

Conclusion

San Diego's Affordable Homes Bonus Program led to a substantial increase in production for both market-rate and deed-restricted affordable homes. By extending that policy throughout California with AB 2345, many more homes are likely to be produced statewide.

The lessons from San Diego's experience should be instructive for the California Legislature, and for other local jurisdictions. The Legislature should continue to create enhancements to Density Bonus Law. Local governments should faithfully implement Density Bonus Law, and also create their own local innovations to go above and beyond what the State requires. Finally, the experience in San Diego should give comfort to those who worry about the impacts of parking reform. Eliminating parking minimums has not undermined the use of density bonus in San Diego, and can help remove barriers to new homes.

West

Photo source: Holland Partner Group



Project Profile: Stella and Bluewater

Stella and Bluewater are adjacent 100 percent affordable developments by Affirmed Housing, entitled together using the AHBP. Stella offers studio and one-bedroom homes targeting homeless and special needs populations with an average rent affordable at 40 percent AMI. Bluewater is a family-oriented mix of one-, two-, and three-bedroom homes with rents affordable at 50-60 percent AMI.

“The AHBP allowed us to build 41 extra units, which allowed the project to enjoy better economies of scale both in terms of total costs per apartment unit but also in terms of operating efficiencies and our ability to leverage additional debt to fill the gap in financing,” said Mellody Lock, Director of Development for Affirmed Housing. “Without the density bonus, we would not be able to house as many San Diego families, folks experiencing homelessness and low-income veterans as we did.”

Stella and Bluewater

Photo source: Affirmed Housing



Project Profile: North Park Seniors

Community HousingWorks entitled the 76-unit North Park Seniors project jointly with an adjacent 1.21-acres site. Together, the projects received a 50 percent density bonus through a discretionary entitlement before the AHBP was adopted. Community HousingWorks was then able to sell the adjacent site for 118 market-rate apartments and use the proceeds to subsidize additional affordable units in the 76-home affordable property.

North Park Seniors

Photo source: Community HousingWorks

This project served as a model for what could be achieved with the AHBP when the San Diego City Council was contemplating adopting it, which in turn became the groundwork for the statewide innovation in AB 2345.



Resident Profile



Photo source: Community HousingWorks

Terry is a gay activist, artist, writer, and 34-year survivor of HIV/AIDS. In Fall of 2016, Terry's landlord told him they were increasing his rent by \$100 a month. As a senior relying on a Housing Choice Voucher, this rent increase meant that Terry could no longer afford to live in the apartment and neighborhood he had called home for 13 years.

Since then, he was selected by a lottery process to live at North Park Seniors, where he can afford to live without fear of rent increases or eviction.

"For decades, I have been an activist, an artist, a director of arts programs. I've been in newspapers and made great change in my community. Living here is the ultimate reward."

Circulate San Diego
233 A St Suite 206
San Diego, CA 92101
www.circulatesd.org
@CirculateSD



CIRCULATE
SAN DIEGO