

**INCENTIVE-BASED LAND USE POLICIES AND  
STRATEGIES FOR LAND ACQUISITION IN  
GENTRIFICATION PROCESS**

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**Abstract**

Gentrification is defined as a process that deteriorating and blighted neighborhoods undergoes revitalization through reinvestment in its physical, social and economic assets. Gentrification is often associated with higher property values, and the displacement of at least some of the original lower income residents (Wikipedia, Gentrification).

Land acquisition is defined as obtaining a land through purchasing, donation, exchange and transfer. Purchasing a land might happen as the result of (1) compulsory purchase, or (2) Incentive-based purchase or (3) just regular purchase. Through land use planning, priorities for investments in urban development can be determined (Jha, K, et al, 2013). Land acquisition goals and objectives lay the foundation for the land management strategies. Land acquisition is the most complicated step to take to achieve urban renewal or gentrification goals (Housing Policy.org). This paper presents the results of a research on gentrification and land acquisition policies and strategies, and focuses on presenting a classification, a review and an analysis of existing incentive-based land use policies and strategies and changes in the trends of using a particular policy or strategy in the process of gentrification.

## Introduction

Land acquisition is defined as obtaining the land by purchase, donation, exchange or condemnation (reclamation lands Handbook, 2013). Land acquisition plan can take various forms depending on the needs of the situation. For example, “minor acquisition” is acquisition of a few small parcels which would require minimal planning effort and documentation (Reclamation Lands Handbook, 2013). Acquisition of several hundred parcels of land as a part of a large project which needs more planning and coordination is called “major acquisition”. Project managers should make sure that properties are obtained from right location and at right timing. Parcels needed to be acquired and method of acquisition should be determined (Reclamation Lands Handbook, 2013). Land Acquisition Land Conformity” requires that acquisition plan should conform to specific authorizing legislations, regulations, court ruling and LND 06-01(Land Acquisition Directives and Standards)(Reclamation Lands Handbook, 2013).

Cities regulated by statutes can obtain land for various purposes. These cities may obtain land within or outside their corporate limits. Land can be obtained in different ways:

Purchase: A city can obtain land by simply buying it.

Dedication: A city can require developers to dedicate land for particular uses, for example, parks.

Donation: A city may receive real estate in a person’s will.

Eminent Domain (Condemnation): This is required sale of land to a government entity for public use or public purpose.

Tax-forfeiture: A city may acquire tax-forfeited land through outright purchase for the land’s appraised value or may acquire the land at no cost if the city agrees to

use the land for a public purpose (Information Memo: League of Minnesota Cities).

The following outline presents a classification of incentive-based land use policies and strategies of land acquisition which will be reviewed and analyzed in this paper:

### **A Classification of Incentive-based land Use Policies and Strategies and Land Acquisition**

- 1- Outright Purchase of land Policy
- 2- Land Conservation Easements Policy
- 3- Purchase of Development rights Policy
- 4- Transfer of Development Rights Policy
- 5- Incentive Themselves Policy
  - 5-1- Incentives for Local Governments Organizations
  - 5-2- Community Benefits Agreement Strategy
- 6- Incentive Zoning Policies
  - 6-1- Density Bonuses Strategy
  - 6-2- Incentive- Based Inclusionary Zoning (Mixed-use in terms of Land use) Strategy.
  - 6-3- Incentive Based Exclusionary Zoning (in terms of income) Strategy.
  - 6-4- Flexible Zoning (rezoning) and Design Standards strategy
- 7- Facilitate the Reuse of Abandoned and Vacant Land Policy
  - 7-1- To Eliminate Barriers to Transfer ownership to a New Owner Strategy

7-1-1- Clear title

7-1-2- Title Transfer from an unwilling owner

7-1-3-Reforming Existing Law

- Tighten Code Enforcement Practices
- Receivership Law
- Strengthen Nuisance Abatement Law

7-2- To Improve Local Land Use Practices Strategy

7-2-1-Comprehensive Planning

7-2-2-Conservation Development

7-2-3-Storm-water, Stream, Floodplain and Wetland  
Protection

7-2-4- Compact Development

7-2-5-Source Water Protection

7-2-6-Natural Areas Establishment

7-3- Reform Tax Foreclosure Laws

7-4- Land Banks

7-5- Exercise Eminent Domain

8- Acquisition of Tax Delinquent Properties Policy

9- Land Trusts

10- Land Banks/ Land Trust Partnership

11- Publicly-owned Land

12- Expedited Permitting

13- Exaction

14- Demolition Fee

- 1- Outright Purchase of Land Policy:** If real estate provide an outright purchase of all rights and title to the land, it can be an encouraging factor for developers or individual investors to invest. Beside direct purchase, a land trust can conserve land through an outright purchase or donation, in which the landowner sells or grants all rights, title, and interest in the property to the land trust. The land trust owns this land, maintaining perpetual stewardship and management responsibility (UW. Conservation Toolkit).
- 2- Land Conservation Easement Policy:** is a legal document that sets forth restrictions on the use of property, usually privately owned. It is a voluntary agreement between a private landowner and a municipal agency or non – for- profit corporation to restrict the development, management, or use of the land. These easements can be donated to the local government or a nonprofit conservation organization in the case of conservation easements. Usually as the result of easements, property owner acquire a tax benefit. Easements are either given on the base of scenic, natural, architectural or historical value of the land (Endicott, 1993).
- 3- Purchase of Development Rights (PDR) Policy:** Land ownership is commonly described as group of rights. Usually when someone purchases a land, they purchase the entire rights for that land. Development rights gives you this permission to build a structure on the land. Development rights may be voluntarily separated and sold off from the land (Noelle, Higgins, 2001) is the purchase of the right to develop land from owners of specific parcels of land, leaving the owner the rights of ownership. The sending areas can be environmentally sensitive properties. Open space, agricultural

land, wildlife habitat, historic landmarks or any other places that are important to a community. The receiving areas should be places that general public has agreed are appropriate for extra development because they are close to jobs, shopping, schools, transportation, and other urban services (Pruetz, AICP, 1999). Purchase of Development Right (PDR) is an incentive based, voluntary program with the intent of permanently protecting productive, sensitive, or aesthetic landscapes, yet keeping the private ownership and the management (Planning Implementation Tools, 2006). In this program, a landowner sells the development rights of a parcel of land to a public agency, land trust or unit of government. Money is given in exchange for their right to develop the land. Purchase of Development Rights is linked to goals and objectives of local governments that are reflected in comprehensive plans and its goals. Sources of funding can be one of these: federal and state grants, foundations, land trusts, public money donations, and local tax levies. Conservation easements may be donated, sold at below market value, or sold at full market by the owner of land. If donated below market value, the landowner may qualify for an income tax deduction. This is a good strategy option when community goals reflect the desire to protect the quality of land as well as to protect ownership rights. PDR should also be linked to supporting state and federal programs and be supported by local ordinances (Planning Implementation Tools, 2006).

**4- Transfer of Development Rights Policy:** Transfer of Development Rights (TDR) is a market based technique that encourages the voluntary transfer of growth from places where a community would like to see less

development (called sending areas) to places where a community would like to see more development (called receiving areas) (Noelle, Higgins, 2001). Basic elements for success of TDR programs are: (A) A clear and valid purpose for applying a TDR, (B) Clear designation of the sending areas and the receiving areas, preferably on the zoning map, (C) consistency between the location of sending and receiving areas and the policies of the local comprehensive plan, including the future land use plan map, (D) recording of the development rights as a conservation easement, which will inform about future restrictions and make them enforceable by civil actions, (E) Uniform standards for what constitutes a development right, based on measures such as density, area, floor-area-ratio, and height, should be used to determine what development right will be transferred. Sufficient planning in the receiving area such as providing adequate public facilities (Noelle, Higgins, 2001).

**5- Incentive Themselves Policy:** Incentives can be created for (A) local governmental organizations. Increase in land values, increase in employment opportunities, increase in wage levels, increase in tax revenues, increase in the provision of services or other facilities are factors by which developers can persuade officials to make favorable zoning and facilitate rezoning (Fischel, 1975; McHone, 1986). Zoning is a way of controlling other municipal costs by limiting the types of development that may raise taxes or require public expenditures (Fischel, William, 1985).

(B) Community Benefits Agreement Strategy: A community Benefit Agreement (CBBA) is a way for local residents and developers interested in gaining residents support for a new development to codify their mutual

support for the development. Community Benefit Agreement are negotiated between community groups and developers on a project by project basis, and detail the specific contributions the development is expected to offer for the community. Benefits may include agreement to hire local workers or trained individuals at a fair wage provides public amenities such as a child-acre facility or community room on site. In exchange, developers benefit from active community support of the project (Housing Policy.org).

**6- Incentive Zoning Policy:** Incentive zoning provides inducements to developers for development projects that provide some type of a community benefit, such as a public square, streetscape, park, senior housing( Beyer, Paul, 2013). Incentive zoning is an effective method for a municipality to achieve the advantages of a desired community benefit, such as providing more public amenities, increased housing options, a pedestrian- friendly environment. All of these provide a community that responds to the needs and quality of life issues of various resident groups, including older adults, individuals with disabilities and others.

Zoning is the control by authority of the use of land, and building (Wikipedia). Zoning can be used as a strategy to provide incentives for land acquisition. Rezoning is the process and action of reclassifying parcels or a geographic area from one zone classification to a new zone classification. Some localities have expanded the supply of housing by rezoning land from for example industrial use to residential use.

6-1: Density Bonuses Strategy: In exchange for meeting certain objectives, zoning incentives can be provided for developers, and individual investors



such as increasing the “building envelope” (which are increasing unit density allowances, reducing set back requirements, increasing Floor Area Ratio allowance, increasing height restrictions, reducing parking requirements, and modified use restrictions to allow for higher – value mixed use) which enable developers to build with higher density (Housing Policy.org). Density bonuses are sometimes given as a compensation for the developers for what they have provided. In other cases, density bonuses are granted as an incentive to encourage owners to sell their lands (Beyer, Paul,2013).

6-2- Incentive-based Inclusionary Zoning: Inclusionary zoning is a form of incentive zoning. Most often, the inducement to the developer is in the form of a density bonus in exchange for including a certain percentage of affordable family housing units, senior housing units, and /or multi-unit housing within a particular development project or land area. Thus, inclusionary zoning ordinances can be used to create greater housing options for specified residents within the community or building (Housing Policy Debate, 2015).

Considering the problems of mixed- economic class uses:

A- In traditionally zoned, low-density areas, incentive zoning can engender an unproven, but expressed public fear of greater density (lower property values, stressed infrastructure, changed resident profile), requiring education and repeated discussion to counter such fears.

B-The added density expected in incentive zoning must be apportioned and designed carefully to accommodate aesthetics, neighborhood character, and resident concerns.

C-Inclusionary zoning can engender unproven but publicly expressed fears of overcrowding, increased crime, decreased property values, and a change in community character, requiring education, repeated discussion, and examples to counter such fears.

inclusionary zoning in terms of mixed-uses can be defined in terms of function, for example, a mixed use of residential and commercial functions, called “inclusionary up-zoning”(Hickey, Robert, 2014).

6-3- Incentive-based exclusionary zoning: The opposite of inclusionary zoning is sometimes used by communities to preclude affordable housing units or multi-unit dwellings for families or individuals.

Federal commissions created under both Democratic and Republican presidents have confirmed that local zoning ordinances are a major factor and can act as a barrier to housing affordability. Numerous governmental housing policies other than exclusionary zoning have similar exclusionary effects: land costs, unnecessary property taxes, fees, exactions, costly building codes, costly housing codes, over-regulations, density controls, direct cost increases (Wikipedia, Exclusionary Zoning). The opposite of inclusionary zoning is sometimes used by communities to preclude affordable housing units (Jacobowitz and Gubits,2006). Exclusionary mechanisms were allowed to endure as complaints about the negative effects on the excluded population ultimately became null and irrelevant (Wikipedia, Exclusionary Zoning). Motivations for exclusionary zoning are: (A) Fiscal:The exclusion of certain types of individuals safeguards the community’s public finances and the individual’s property value. Lower income residents generally demand more public resources than they contribute in taxes. (B) Exclusionary zoning of lower densities prevents negative consequences of higher density (congestion, less privacy, quality of life, less aesthetic quality, less cohesiveness of an area, less

environmental quality, less water and air quality, and totally accelerating degradation of the community's remaining resources(Bogart, William, 1993).

6-4- Flexible zoning (Rezoning) and Design Standards: The process and action of reclassifying a parcel, parcels or geographic area from one zone classification to a new zone classification. In some locations, the supply of housing has been increased by rezoning land from industrial use to residential use. Approvals for "master Planned Communities" that are built on the urban edge, large scale redevelopments of existing urban space, and smaller "Planned Unit Developments (PUDs)"-any instance in which considerable zoning flexibility is needed to make new development possible are examples (Hickey, Robert, 2014).

Relaxation of regulations related to the placement of buildings on individual lots (setbacks), height restrictions, lot size specifications and floor-area-ratios which determine the overall allowable density allows developers to determine the cost and characteristics of the development (Housing Policy.org/Policy-Establish Inclusionary Zoning Requirements or Incentives).

**7-Facilitate the Reuse of Abandoned and Vacant Land Policy.** There are two options to reuse a land: (A) Property may be left abandoned indefinitely. (B) Property may be used again. If the intention is to put land into use, the impetus for intervention is to eliminate the legal barriers to transfer the property to a new owner (Brachman, Lavea, 2005).

7-1- To eliminate barriers to transfer the property to a new owner strategy:

7-1-1: Clear Title: is a critical issue. Clear title is a signal that a property can be purchased without worrying about old liens or previous owners coming back to assert claims to the property. The terms "insurable title" and "marketable title" The multiple tax liens that encumber the title, and often

cause the property's abandonment in the first place, can cloud the title and prevent effective title transfer.

7-1-2: Title transfer from an unwilling owner or in abandonment cases where ownership is in doubt.

7-1-3-Reforming Existing Law:

\*Tighten Code Enforcement Practices

\* Receivership Law: to encourage community development companies to use existing receivership powers which means when a receiver take the custody of the property, business, rents and profits of person or entity or a party whose property is in dispute. A receiver may be authorized to sale the property (USLEGAL.COM).

\* Nuisance Abatement Law: is a growing area within the policing and code enforcement. The term refers to using building codes, fire codes, zoning, etc., in order to improve the quality of life and resolve life safety issues within neighborhoods. Nuisance abatement programs are a component of community policing programs.

7-2- To improve Local Land Use Practices Strategy, the following are recommended (Brachman, Lavea, 2005):

7-2-1- Comprehensive Planning

7-2-2- Conservation Development

7-2-3- Storm-water, Stream, Floodplain, Woodland and Wetland Protection

7-2-4- Compact Development

7-2-5- Source Water Protection

7-2-6- Steep Slope Protection

7-2-7- Brown Field Redevelopment

7-2-8- Agricultural Protection

7-2-9- Historic Protection

7-2-10- Access Management

7-3-Reform Tax Foreclosure Laws

7-4-Land Banks: is the advance acquisition of sites and holding them for future use (Louw, Erik, 2008). A growing number of communities have created a dedicated public authority, known as a "land Bank", to streamline property reuse activities, assemble developable parcels, and manage the re-development process to serve the community's goals. Creating a land bank can manage property acquisition and disposition. A dedicated public authority, called a land bank can manage property acquisition and disposition. Land bank can facilitate abandoned property reuse by streamlining the process of property acquisition, management, and disposition while also allowing disposition to meet community development goals(Brachman, Lavea, 2005).

7-5- Exercise Eminent Domain.

**8- Acquisition of Tax-delinquent Property:** A property for which property taxes and/or municipal bills are severely past due. Tax delinquency is often one of the first manifestations of these properties' distress. It has the principal avenue through which local governments become involved. "In rem policy" refers to the array of municipal policies, legal frameworks, and administrative procedures that attempt with expediency to return tax delinquent properties to productive, revenue-generating uses. Community Development Companies have been one of the most aggressive local institutions in both acquiring distressed properties and lobbying local governments to reform the laws and regulations surrounding disposition of such property (Keating, Larry and David Sjoquist, 2001). To put distressed, tax delinquent property into productive use depends on four key elements:

- 1- A mechanism to waive unpaid property taxes, penalties and interest.
- 2- 2- An expeditious foreclosure process that provides a marketable title that is, one that title insurance companies are willing to insure.

3- The existence of Community Development Companies and other non for profit housing developers with the capacity to redevelop the distressed properties.

4- Ability to sell properties at below fair market value

**9- Land Trusts:** Community Land Trusts (CLTs) are another organization that tackle complex projects in distressed neighborhoods. CLTs play the dual role of community development and community organizing and maintaining a balance between two sets of community interests and individuals' interests (Berke, 2009). Since land speculation tends to raise property values, removing real estates (houses, buildings, and land) from the open market Stabilizes property values (Community Land Trusts).

**10-Land Banks/ Land Trusts Partnership:** A "land bank" and a "community land Trust" with explicit community control, are two different institutions that the community could employ to support collaboration around land acquisition for future development in the community. Emmeus, John Davis, writes that "municipal land banks and community land trusts are frequently portrayed as competing policies for securing control over abandoned lands and derelict buildings, but I contend that they are complementary. Each strategy performs better if developed and operated in partnership with the other" (Davis, ). In 2011, in Philadelphia, on October 6, in a symposium, Dan Kildee founder and former president of the center for Community Progress, suggested that land bank might productively function as an acquisition mechanism for land trusts.

**11-Publicly-owned Lands:** The term public land means land owned by a government. It is habitually used to designate land subject to sale, not reserved for special governmental or public purposes. The term public lands of the U.S. refers to those lands subject to sale under general laws, excluding lands with claims or rights attached. The terms public lands or public lands or public domain are regarded as synonymous.

**12-Expedited Permitting:** Delays during any stage in the development process add to the final costs of new housing. Reducing the costs incurred by developers during the development review process makes affordable housing projects more attractive. Expedited permitting is a cost-efficient and very effective way of reducing developer costs (Washington Area Housing Partnership-Expedited Permitting). In some municipalities it can take months or even years to secure all the approvals needed to begin construction on a proposed development (Housing Policy.org).

**13- Exaction:** An exaction is a concept in real property law where a condition for development is imposed on a parcel of land that requires the developer to mitigate anticipated negative impacts of the development (Casner, 2004). Are discretionary fees (available to be used when and how you decide, where necessary), dedications, or off-site improvements imposed as a condition for approval of a particular development project by the municipality or the county. Like impact fees, exactions are meant to mitigate off-site impacts of a development. Exactions are similar to local governments instead of conditions on development (Exactions and Impact Fee).

**14-Demolition Fee:** Paying for the demolition fee can act as an incentive for land acquisition.

## Conclusion

The right of the government to obtain private land for public purposes is known as eminent domain, and this right derives from Federal and state constitutions and related laws. The power of eminent domain allows the government to take private land for public purposes only if the government provides fair compensation to the property owner. The process through which the government acquires private property for public benefit is known as condemnation. The current trend is toward reducing the condemnation policy and more toward incentive-based policies. This paper presented, reviewed and analyzed the classification of existing incentive-based land use policies and strategies.

One of the basic conclusions made in relation with this analysis is about inclusionary zoning in terms of economic mixed use. The questions that are raised in the literature are:

- 1- Why mixed-income inclusionary zoning?
- 2- Why forcing developers to provide affordable housing
- 3- Do Gentrified areas necessarily to provide affordable housing for poor?
- 4- Expanding housing options for the wealthy brings benefits to middle class and poor renters and buyers in the form of less competition for market rate housing, which is where the vast majority of them will be living.

Since inclusionary zoning is a new social concept, there are few reports qualifying its effective or ineffective limitation of gentrification. The basis of inclusionary zoning is partial replacement as opposed to displacement of the embedded communities (Clark, Eric, 2005). In Los Angeles, California apparently accelerated gentrification, as older unprofitable buildings were demolished and replaced with mostly high-rent housing, and a small



percentage of affordable housing, the net result was less affordable housing. The review of literature shows that the strategies that are up-zoning and mixed-use in terms of compatible function, will be beneficial.

In 2014, Hickey Robert writes about six localities that have adopted inclusionary housing policies tied to up-zoning, referred to here as "inclusionary Up-zoning" had success. Each profile provides a sketch of how policy is structured and how effective it has been. Drawing on these examples, the paper explores how neighborhood context, market context and policy design may affect the success of inclusionary up-zoning policies and their potential for adoption in new areas of the country where inclusionary housing has not been implemented (Hickey, Robert, 2014). In-Lieu-Fee is a fee paid by developers as an alternative to constructing new affordable homes. Typically, fee revenue is deposited in a housing trust fund and used to facilitate construction. Some states, such as Oregon and Texas, legally prohibit mandatory inclusionary requirements. These prohibitions rooted in concerns about protecting private property rights. Still other communities having authorization, are hesitant to attach affordability requirements to housing markets that have not yet recovered from the housing downturn (Hickery, Robert, 2014).

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