CASE STUDY: CITY OF ALHAMBRA

San Gabriel Valley Oversight Group
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Discriminatory housing policies and practices by the city of Alhambra

by Eric Sunada

For nearly 20 years, the city of Alhambra maintained discriminatory housing policies and practices that have precluded families from access to affordable housing. The city accomplished this by restricting their subsidized housing stock to mostly senior citizens, despite demographics to the contrary. Through this practice of age discrimination, 99.2% of the rental units slated for those of low-income are off limits to families. Yet families with children are the group most in need of such housing, a fact confirmed by the city's own findings[1]. Even when limiting consideration to special needs groups, the needs of female-headed households (single mothers) outweigh those of seniors. So follows the obvious question: why is the city of Alhambra practicing age discrimination?

Background

The region in the West San Gabriel Valley has very high housing costs. Many residents have most of their income consumed by rent or mortgage payments. Relative to other parts of the nation, many are considered "house-poor." That is, so much of their money goes into their dwelling that they often cannot save for the future. Some have remaining disposable incomes so low that they are effectively living near the poverty line.[2]

California law mandates that cities address the affordable housing problem, but gives them the latitude and trust that its most disadvantaged will be served. Also, the federal government provides grant funding to help cities bear the cost of providing affordable housing, and places no age restrictions on who may qualify for such housing, again placing its trust in the cities.

Toward this end, the state requires that cities provide incentives to developers to encourage such developments. These incentives are in the form of density bonuses: allowed exceptions to the city's ordinance specifying the maximum number of dwelling units that can be developed per acre of land.

For developers to gain such waivers to the usual building code, they are required to provide a minimum number of units with reduced costs for the community.

This is best explained by an example: Say a developer decides to build a condominium complex and the land on which it will be developed sits within the R3, high density residential area of Alhambra. The Alhambra city code says that such developments are restricted to a maximum of 24 units per acre. To address the need for affordable housing, the state mandates that Alhambra offer the developer the chance to build more than 24 unit per acre in exchange that some of the units be sold at reduced rates for those in need. By being allowed to develop more units per acre, the developer can generate more revenue, which, in turn, is used to offset the lower profit on the affordable units. By having these affordable units available to those in need, the community's housing needs get addressed which helps to somewhat justify the higher density and associated burdens placed on residents such as increased traffic. Ideally, everyone pitches in to help: developers provide some units at reduced rates, nearby residents adjust to the higher density, and cities are expected to help by properly planning for infrastructure and open space upgrades in the affected areas.

Here's the problem: From 1989 to 2008, the city had laws in place which permitted density bonuses up to 400% if developers were to build units dedicated to seniors only (see Table 2). In the example above, developers would be allowed to build 96 units per acre when they otherwise would only be able to build 24 per acre under existing building codes. At the same time, they offered significantly smaller bonuses for non-age restricted units (see Table 1). Developers, whose goal is to provide a return to investors, are all but guaranteed to follow the path where they can build the greater number of units per acre of land. Never mind that the city's demographics do not support this need, they can draw in others from surrounding areas. In other words, the city gave exorbitant financial incentives to developers if they built housing and restricted it to seniors only—a deal they could not refuse. Note that this policy conflicts with state law which actually places a bonus cap on units dedicated to seniors, possibly a recognition of the problem at hand.[3]

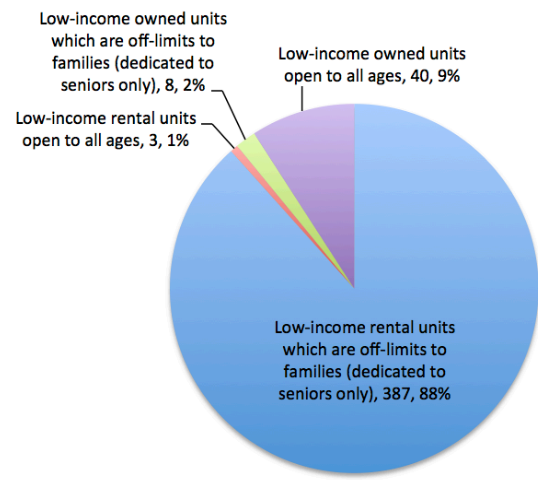

Figure 1
Alhambra's affordable housing inventory is largely off-limits to families as a result of age-based discriminatory polices and practices. Values given are the number of units of a particular type followed by the overall percentage it represents of the affordable housing stock.

By having been given permission to develop up to four times the number of units per acre they would normally be allowed, developers are making out very well. And the city evidently got what it wanted through these skewed set of rules while still satisfying its obligation to the state for the creation of affordable units. But it is the residents and community at large who are left with the short end of the stick. The units created for low-income groups are now age restricted to those 62 and older[4] and, as a result, are not available to families, single mothers, and anyone else. And the nearby residents are burdened with higher densities, increased traffic, and additional pressure on city resources such as open space. Ordinarily, residents would be protected from such burdens by the existing building code.

	City of Alhambra's Planned Residential Development Density Bonus Ordinance from 1989 - March 24, 2008		State Law	
	If the developer provides...	Maximum density bonus awarded to developer...	If the developer provides...	Maximum density bonus awarded to developer...
Non-Age Restricted Units	10% of units dedicated for very low income housing	25%	11% of units are for very low income housing	35%
	25% of unts dedicated for low or moderate income housing	25%	20% of units are dedicated for low income housing	35%
			40% of units are for moderate income housing	35%
	Allowed to qualify for both. Combined, density bonus adds to:	**50%**	**Allowed to qualify for all.* Combined, density bonus adds to:**	**105%**

Table 1

*A comparison between Alhambra's density bonus ordinance and that of the state of California from 1989 to 2008 for developers providing affordable housing. *SB435, effective January 1, 2006, clarified that a developer must choose a density bonus from only one affordability category. Alhambra did not comply with state law until 2008.*

	City of Alhambra's Planned Residential Development Density Bonus Ordinance from 1989 - March 24, 2008		State Law	
	If the developer provides...	Maximum density bonus awarded to developer...	If the developer provides...	Maximum density bonus awarded to developer...
Units Restricted to Seniors Only	50% of units dedicated for seniors only	25%	100% of units dedicated to seniors only	20%
	10% of units dedicated for very low income senior housing	25%	No bonuses given for age restricted affordable housing	0%
	25% of units dedicated for low or moderate income senior housing	50%	No bonuses given for age restricted affordable housing	0%
	If some units are government subsidized, the above units may be increased by a factor of 4	x4	No bonuses given for age restricted affordable housing	0%
	Allowed to qualify for all of the above. Combined, density bonus adds to	**400%**	**Senior bonuses cannot be combined. Maximum allowed:**	**20%**

Table 2

A comparison between Alhambra's density bonus ordinance and that of the state of California from 1989 to 2008 for the special need group of seniors. Alhambra permitted a 400% bonus to developers who generated affordable housing for seniors while that state permitted a maximum of 20%. Seniors represent just 13% of the total population in Alhambra and 11% of the total in need of affordable housing.

But it gets worse. The city of Alhambra also permitted huge bonuses to developers if government assistance funding was used for senior projects, but gave no such bonuses to otherwise unrestricted projects. Furthermore, the city usually decides which projects get government assistance. This is an illogical policy that appears to be driven by something other than what is best for the community. It also makes the city susceptible to corruption.

Such unsound policies facilitate situations similar to when a former Alhambra mayor-turned-developer was convicted in 2007 of bribery for a subsidized senior housing development. Former mayor J. Parker Williams was caught trying to bribe then-councilman Daniel Arguello for his vote in support of a senior housing project on 210 N. Monterey Street[5]. This proposed development benefitted from a 75% density bonus by taking advantage the city's skewed density bonus policies favoring seniors. The financial gains to the developer due to this density bonus and other cost-sharing measures by the city appears to be significant because the developer, Mr. Williams, et al., found it easy enough to offer a bride of $25,000 to Mr. Arguello just for his vote of approval.[6]

Why has the city discriminated against families?

According to the city's 2010-2015 Consolidated Plan, family households are at least three times more likely than seniors to be in need of very low or low-income housing. And these figures suffer from outdated data and mask an even greater divide; overall, seniors represent only 13% of Alhambra's population and only 11% of the total in need of low or very low-income housing. One cannot discount the need of seniors, and there are obviously significant numbers in need of affordable housing. But why did the city largely ignore everyone else?

When the SGVOG interviewed city management on October 22, 2010 and asked this question, city manager Julio Fuentes deflected the question by citing the number of units they city has built for families. When confronted by the disparity as shown in the actual numbers and that the city appears to be taking too much credit for the few family units they have created (see Figure 1[7]), his then-director of development services, James Funk, jumped in and said "any affordable housing helps. I don't understand what you are trying to get at here!" Mr. Fuentes then exclaimed, "Where are these people? Show me these families [that are in need of low-income housing]!" When the SGVOG cited census data, studies done by the state, the long Section 8 voucher waiting list, and first-hand knowledge, Mr. Fuentes focused on those for which the SGVOG had first-hand knowledge and implied that he may be able to do something for them if they were to give his office a call.

The interview revealed the "regional" stance the city takes with respect to affordable housing, similar to its approach when addressing services for the homeless. That is, they rely on outside entities to address these problems and appear to have little in terms of a strategic plan to address such issues, instead focusing on short-term fixes that amount to appeasement. The city tries to comply with state law by doing the minimum possible, and in the case of low-income housing, it did worse by sidestepping the group in need of it. When the three were asked why the city rewarded developers with exorbitant bonuses if they developed senior housing, they cited the need to address the forthcoming baby-boomer retirement flood. There was no answer when the SGVOG asked for a fiscal basis for this claim. Nor was there any response when asked why the city incentivized the use of federal grant funding for senior projects.

One reason may be the perception by some within the city that lower-income families are undesirable neighbors. This income group has been unjustly stigmatized as undesirables that are troublesome to neighborhoods. In Alhambra, lobbying groups such as the chamber of commerce and the pro-business city council have promoted policies to thwart any images with negative connotations to businesses, however false their assumptions. In other words, the city appears to be saying "the low-income element is bad for business," and that if they must tolerate them per state law, they will take the geriatric crowd as the lesser of evils because they lack the energy to cause problems. But while they guild the streets, the customer's purchasing power is negated by high rents which, in turn, contributes to the high turnover rate amongst failed businesses. In this regard, the business lobby is hurting its customer base rather than helping it.

Characterizing those who qualify for low-income housing as pariahs is unjust. Studies for the Western San Gabriel Valley have shown occupations that would qualify as low income include security guards, EMTs and paramedics, retail salespersons, preschool teachers, mental health counselors, and cosmetologists among others—the very people who contribute to a successful city (Table 3)[8]. These are people who are key to the local economy but cannot even afford to rent a home, let alone purchase one. To afford a two-bedroom apartment, a family needs an annual income of $57,880 in Los Angeles County, and this assumes no monthly debt such as car or credit car payments[9].

VERY–LOW-INCOME EARNERS*	
Nursing Aides and Orderlies	$ 26,808
Bank Tellers	$ 26,911
Receptionists	$ 28,601
EMTs and Paramedics	$ 30,732
Preschool Teachers	$ 31,736

*below 50% of median income for a family of four

LOW-INCOME EARNERS**	
Tax Preparers	$ 42,704
Payroll Clerks	$ 43,949
Mental Health Counselors	$ 49,708
Licensed Nurses	$ 50,390
Police Dispatchers	$ 51,741

**below 80% of median income for a family of four

Table 3

Occupations within the 49th Assembly District, which encompasses the city of Alhambra, that would likely qualify for low-income housing.

The trend continues

After 2008, the city changed their density bonus laws to comply with state law. But after nearly 20 years of non-compliance, the city is mostly built-out in terms of large rental units. And although the city now complies with state law, it hasn't stopped them from exceeding density bonus regulations. Even worse, they are granting density bonuses without any return to the community in the form of affordable units. Specific Plans are the new vehicle of choice to circumvent city planning ordinances which otherwise restrict the number of units per acre. These are special zones that are engineered by the city to serve their needs. Most recently, they have been employed to allow mixed-use housing developments along Main Street with densities that exceed the requirements as listed in the general plan. This policy appears to be at odds with the state law[10], yet they are routinely passed with little to no discussion at the city's open meetings. Because they are city-engineered maps, there is no requirement for any set-asides for affordable units.

The Zen Terrace debacle

The city's development services department was found to be less than diligent when it comes to protecting the city's affordable housing obligations. Case in point: At the November 15, 2010 Alhambra Planning Commission meeting, the city allowed a group of investors to purchase new condominiums at below-market rates which were originally dedicated to low to moderate income seniors.

The recently constructed, 64-unit Zen Terrace condominium complex located on the Northwest corner of Atlantic and Commonwealth was built with the promise that 16 of those units would be dedicated for low to moderate income seniors. In return, the developer, Sam Wong, was granted a density bonus which would allow him to construct 50% more units per acre than normally allowed under city ordinances.

At a previous planning commission meeting on November 1, 2010 city staff placed an item on the consent agenda asking for a revision to the agreement. The proposed revision would have allowed anyone to purchase the units, at the affordable rates, regardless of the purchaser's need. The proposal also allowed units to be rented out; the only stipulation being that such units must be rented to seniors who meet low-income requirements.

At the November 1 meeting, Sam Wong stated the reason for the proposed revision was due to difficulty in selling the units. Wong cited the poor economic climate as the reason and said there was a lack of qualified purchasers.

At the same meeting, James Funk, Director of Development Services, provided statements that were contradictory to the city's affordable housing policies. He stated that the original agreement did not place any restrictions on the purchase price. Commissioner Gary Frueholz expressed his confusion with the statement. Others also expressed confusion and the meeting was continued to November 15.

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But when the commission next met on November 15, it was revealed that the reason for the proposed revision was due to the fact that 9 of the 16 affordable units had already been sold to unqualified investors months ago. The purchasers were neither seniors nor low to moderate income qualified. It is unclear as to why neither staff nor the developer came forward with this information at the previous meeting. If the item were not flagged by the SGVOG at the November 1 meeting, it is very likely that it would have passed without discussion.

To further complicate the matter, the city attorney rendered the opinion that the city could not impose any restrictions as to whom the units could be rented.

Commissioner Enrique Garcia said, "To me, the spirit was very clear that the 16 units were to be for purchase and occupancy by senior citizens of low and moderate income." Likewise, Commissioner Gary Frueholz said that "the conditions were clear and he's not really confused by this."

But Commissioner Stan Yonemoto cited Mr. Wong's good intentions and the contradictory information provided by the city to him with regard to the agreement. The resulting vote by the commission approved, by a 4-3 vote, the proposed revision which essentially allows the 16 units to be open for purchase and rent by anyone[11].

In the end, the 16 units which were originally intended to be owner-occupied by low to moderate-income seniors are now open to anyone. Investors were allowed to purchase at the same below-market rates and allowed to rent out the units unrestricted. This action appears to be illegal. It is no doubt unethical as it hurts both those in need of affordable housing as well as local residents who tolerate the higher density provisions and conversion of owner-occupied units to rentals.

The affordable housing practices of the former Alhambra Redevelopment Agency (ARA)

There are many in the city who do not realize that one of the main goals of the redevelopment agency was to provide affordable housing. State law even mandates that a minimum of 20% of the tax increment revenue must be dedicated to the creation of affordable housing. But Alhambra has consistently focused revenues back into subsidizing developers without creating affordable units. The crux of the problem is that the ARA used the redevelopment vehicle as a subsidy for corporations and businesses. It strayed from the core values of the redevelopment program. It paid for such things as recurring costs in the form of leases and maintenance. Still on the books is over $3,300,000 the ARA gave to New Century BMW to subsidize their construction costs; $320,000 to Kohl's to come into town; and over $35,000 in rental and maintenance payments on behalf of businesses. At the time of this writing, the city is still fighting to have such payments continue to be paid through the tax increment funds that would have gone to the ARA.

These specific cases are a small subset of the millions of dollars that have already been spent in similar ways. This was made possible, in part, by utilizing the 20% set-aside that the city was required to dedicate to affordable housing. Whenever the city was required to payout portions of its tax revenue back to the state for things such as the Supplemental Educational Revenue Augmentation Fund (SERAF) to help schools, the city opted to use the affordable housing set-aside funds rather take away from its practice of subsidizing retailers. On the books was over $6,400,000 of loans taken out against this account. Efforts by the SGVOG to stop this risky practice since there was a good chance such funds would be lost forever were unheeded[12]. Predictably, when the state shutdown the redevelopment agencies, this money that the ARA was suppose to use for affordable housing projects was completely lost.

It is more likely that the businesses will still get their money, with so many people lobbying on their behalf, including the city's appointees on the ARA oversight board. But the working poor, without a voice, are left holding the short end of the stick.

Perspective from the wider viewpoint

Although Alhambra is not alone in this practice, no other city in the San Gabriel Valley reserves so much of its affordable housing stock for seniors. Pasadena has a senior population with similar proportions to Alhambra's at 11%, but the city dedicates only 57% of its affordable rental units to them. Baldwin Park, a city which has a similar household income to Alhambra, has a senior population of about 6.2% and sets aside 47% of affordable rental housing to those 65 and older. And Monterey Park, which has a significantly higher percentage senior population than Alhambra at 18%, dedicates 72% of affordable units to them.

Nationwide, the net worth of households headed by adults ages 65 and older was 47 times that of households headed by adults under the age of 35 as of 2009.[13] Unlike the working poor, seniors benefit from strong lobbying groups, AARP being one. Efforts to perform wealth redistribution will also favor the elderly in the form of Medicare and Social Security. Locally, cities such as Alhambra only consider income when determining qualification for affordable housing. But while seniors often have fixed incomes, their net worth is substantially higher. In fact, the city relies on seniors being able to sell existing homes in order to afford the many senior units developed in Alhambra over the years. It is worth noting that the senior development at 210 N. Monterey Street which was at the center of the scandal involving a former Alhambra mayor-turned-developer, J. Parker Williams, and then councilman Daniel Arguello (Arguello was responsible for notifying authorities and was not implicated in the crime) is still in development, albeit with new partners. But at the November 7, 2011 Planning Commission meeting where it was up for approval, Development Services Director Mary Swink responded to a question regarding whether there would be enough seniors to qualify for the low to moderate-income units, she responded "they way seniors get in to these units is by selling their existing homes and then buying these units. It does not count as income. This is what the [county] housing department has told us."

By not providing affordable housing to residents in Alhambra, regardless of age, the city is denying those in need of low-income housing the opportunity afforded to them by the state and federal government. After 2008, the city changed their density bonus laws to comply with the state law. But by this time, the damage had been done. The city is largely built-out in terms of large rental units. And if recent activities are any indication, the future actually looks worse, as evidenced by the examples cited of the wrongful selling of affordable units to investors, the use of Specific Plans to bypass affordable housing concessions from developers while still giving them large density bonuses, and the borrowing and subsequent loss of former redevelopment agency affordable housing coffers.

The question still remains: Why not base it solely on income? Seniors certainly wouldn't be precluded, nor would families, single mothers, the disabled, or any others provided they met income requirements. By doing so, the city would be closer to addressing the needs of its residents, and that, in turn, would reduce housing stress and promote a more amiable environment. It would also be closer to meeting its ethical obligations.

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[1] City of Alhambra, *Alhambra Consolidated Plan for Housing & Community Development (2010-2015)*, 2010.

[2] Kathleen Short and Timothy Smeeding, *Understanding Income-to-Threshold Ratios Using the Supplemental Poverty Measure: People with Moderate Income*, U.S. Census Bureau, SEHSD Working Paper Number 2012-18, August 21, 2012.
Jason DeParle, Robert Gebeloff, and Sabrina Tavernise, "Older, Suburban and Struggling, 'Near Poor' Startle the Census," *New York Times*, November 18, 2011.

[3] State density bonuses are proportional to those most in need. Bonuses are greater if developers dedicate units for very low-income groups and are less for moderate income. This is done to offset losses to their bottom line. No age restrictions are placed on these bonuses.

[4] Kimball, Tirey & St. John LLP, March 2011: In 62+ senior housing, no one under the age of 62 is permitted to live there, with three exceptions: 1) a live-in caregiver who might need to live with the senior as a "reasonable accommodation" based on the disability of a resident; 2) an employee under 62 whose duties require that the person must live on the property; and 3) underage occupants residing at the property prior to 1/1/85 (California law) or 9/13/88 (Federal law) are allowed to continue their tenancy. 55+ senior housing is more complex. The California Unruh Civil Rights Act (which sets forth the rules for senior housing in California) was amended in 2000 to require that, for all tenancies beginning 1/1/01 or after, at least one member of the household must be 55 or older. There are no exceptions to this rule in non-subsidized housing, which means that underage, disabled residents may not move into a 55+ property by themselves â€" they would have to live with a "qualifying senior" (someone 55 or older) in order to legally reside in the community. There are some federal subsidy programs which are entitled "elderly/disabled." In properties operated under those programs, an exception must be made in order to comply with the program requirements. (Effective January 1, 2011, California law was amended to specifically provide that selection preferences based on age imposed in connection with federally approved housing programs do not constitute age discrimination in housing.) With respect to secondary residents (those living with the qualifying senior), the most restrictive rules allowed are to require secondary residents to be "Qualified Permanent Residents." Qualified Permanent Residents must be 45 years of age or older, unless the person is: 1) a spouse or cohabitant of the qualifying senior; or 2) a person who provides primary economic or physical support for the senior; or 3) a disabled child or grandchild who needs to live with the senior or the Qualified Permanent Resident because of his or her disabling condition. Further exceptions would be persons under age 55 who resided in the complex prior to 1/1/85. Finally, if the number of units on the senior property exceeds the minimum requirement of 35 (or 21 in Riverside County) additional units may be occupied by under-age employees providing all other requirements of the Unruh Act are met.)

[5] http://da.lacounty.gov/mr/archive/2007/060807a.htm

[6] Daniel Arguello was not implicated in any wrongdoing. He notified authorities after being approached by Mr. Williams and wore a recording device per law enforcement's request to help convict the developers.

[7] City of Alhambra, *Alhambra Affordable Housing Inventory*, September 14, 2010.

[8] Housing California, "Priced out: The Housing Situation in the 49th Assembly District," www.housingca.org/site/DocServer/DSR_AD-49.pdf?docID=1061, March 2012.

[9] Ibid.

[10] To an extent, the range of issues that is contained in a specific plan is left to the discretion of the decision-making body. However, all specific plans, whether prepared by a general law city or county, must comply with Sections 65450 - 65457 of the Government Code. These provisions require that a specific plan be consistent with the adopted general plan of the jurisdiction within which it is located. For more information, see http://ceres.ca.gov/planning/specific/

[11] ayes:Yonemoto, Teng, Murray, Richetts; noes:Frueholz, Garcia, Lodge; absent:Birrueta, Tello; recused:Bunker

[12] San Gabriel Valley Oversight Group, letter to Assembly member Mike Eng, September 5, 2011.

[13] George F. Will, "Government: The redistribution behemoth," *Washington Post*, January 8, 2012.